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The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2005 VAC Supplement includes final regulations published through *Virginia Register* Volume 21, Issue 11, dated February 7, 2005). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 55-30-10 through 1 VAC 55-30-90 emer	Added	21:19 VA.R. 2599-2602	5/16/05-5/15/06
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-30-10	Amended	21:19 VA.R. 2530	6/29/05
3 VAC 5-30-30	Amended	21:19 VA.R. 2531	6/29/05
3 VAC 5-30-60	Amended	21:19 VA.R. 2532	6/29/05
3 VAC 5-30-70	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-40	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-70-220	Added	21:19 VA.R. 2533	6/29/05
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 20-110-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-170-10 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30	Amended	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-50	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-55	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-130	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-135 emer	Added	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-252-135	Added	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-150	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-160	Amended	21:13 VA.R. 1826	2/2/05
4 VAC 20-320-20 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-20	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-320-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-390-20 through 4 VAC 20-390-50	Amended	21:22 VA.R. 3089-3092	7/1/05
4 VAC 20-430-10 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-10	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-15 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-15	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-450-30	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-620-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-620-40	Amended	21:14 VA.R. 1992	3/1/05
4 VAC 20-620-50	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-60	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-70	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-720-10 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20	Amended	21:14 VA.R. 1994	3/1/05

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-720-40 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-40	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-49 emer	Added	21:14 VA.R. 2016	3/1/05-3/9/05
4 VAC 20-720-50 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-50	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-60 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-720-110 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-910	Erratum	21:20 VA.R. 2736	--
4 VAC 20-910-45	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-910-45	Amended	21:21 VA.R. 2901	6/1/05
4 VAC 20-920-45	Added	21:8 VA.R. 914	12/1/04
4 VAC 20-950-45	Amended	21:16 VA.R. 2191	4/1/05
4 VAC 20-950-48	Amended	21:13 VA.R. 1828	2/2/05
4 VAC 20-1065-10 through 4 VAC 20-1065-40	Added	21:12 VA.R. 1523	2/1/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50 emer	Added	21:16 VA.R. 2221	4/1/05-4/30/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50	Added	21:18 VA.R. 2374	5/1/05
4 VAC 25-130 (Forms)	Amended	21:22 VA.R. 3106	--
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 20-130-60	Amended	21:16 VA.R. 2192	5/18/05
6 VAC 20-180-10 through 6 VAC 20-180-50	Amended	21:14 VA.R. 1996-1998	4/20/05
6 VAC 20-180-60	Added	21:14 VA.R. 1998	4/20/05
6 VAC 20-250-10 through 6 VAC 20-250-360 emer	Added	21:21 VA.R. 2914-2925	7/1/05-6/30/06
6 VAC 35-140-10	Amended	21:19 VA.R. 2534	7/1/05
6 VAC 35-140-20	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-22	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-23	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-24	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-30	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-40	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-45	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-50 through 6 VAC 35-140-90	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-110 through 6 VAC 35-140-140	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-170 through 6 VAC 35-140-190	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-192	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-200 through 6 VAC 35-140-230	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-250 through 6 VAC 35-140-270	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-275	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-280	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-290	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-295	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-300 through 6 VAC 35-140-350	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-385 through 6 VAC 35-140-389	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-400	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-430 through 6 VAC 35-140-500	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-510	Repealed	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-530	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-540	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-545	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-550 through 610	Amended	21:19 VA.R. 2538-2540	7/1/05
6 VAC 35-140-615	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-620	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-630	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-660	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-670	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-680	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-685	Added	21:19 VA.R. 2540	7/1/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 35-140-690	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-700	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-701 through 6 VAC 35-140-709	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-711 through 6 VAC 35-140-715	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-730 through 6 VAC 35-140-770	Amended	21:19 VA.R. 2540	7/1/05
<b>Title 8. Education</b>			
8 VAC 20-21-580	Amended	21:15 VA.R. 2111	5/5/05
8 VAC 20-30-10 through 8 VAC 20-30-40	Amended	21:22 VA.R. 3092-3093	8/15/05
8 VAC 20-30-50	Repealed	21:22 VA.R. 3093	8/15/05
8 VAC 20-30-60	Amended	21:22 VA.R. 3093	8/15/05
8 VAC 20-30-70	Amended	21:22 VA.R. 3093	8/15/05
8 VAC 20-90-10	Amended	21:14 VA.R. 1999	5/2/05
8 VAC 20-90-30	Amended	21:14 VA.R. 2000	5/2/05
8 VAC 20-90-40	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-90-70	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-210-10	Erratum	21:13 VA.R. 1941	--
8 VAC 20-520-5 emer	Added	21:14 VA.R. 2016	3/1/05-2/28/06
8 VAC 20-520-10 emer	Repealed	21:14 VA.R. 2017	3/1/05-2/28/06
8 VAC 20-520-20 through 8 VAC 20-520-60 emer	Added	21:14 VA.R. 2017-2018	3/1/05-2/28/06
8 VAC 20-680-10	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-680-20	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-690-10 through 8 VAC 20-690-50	Added	21:12 VA.R. 1525	3/29/05
8 VAC 20-700-10 through 8 VAC 20-700-50 (emer)	Added	21:13 VA.R. 1928-1929	2/16/05-2/15/06
8 VAC 40-20-20	Amended	21:22 VA.R. 3102	9/28/05
8 VAC 40-20-30	Amended	21:22 VA.R. 3103	9/28/05
<b>Title 9. Environment</b>			
9 VAC 5-10-20	Amended	21:15 VA.R. 2112	5/4/05
9 VAC 5-20-204	Amended	21:15 VA.R. 2119	5/4/05
9 VAC 5-40-6620	Amended	21:15 VA.R. 2120	5/4/05
9 VAC 5-40-7260	Erratum	21:13 VA.R. 1941	--
9 VAC 5-40-7270	Erratum	21:13 VA.R. 1941	--
9 VAC 5-50-260	Amended	21:19 VA.R. 2577	8/29/05
9 VAC 5-60-92	Added	21:19 VA.R. 2577	8/29/05
9 VAC 5-80-1100	Amended	21:19 VA.R. 2577	8/29/05
9 VAC 5-80-1110	Amended	21:19 VA.R. 2578	8/29/05
9 VAC 5-80-1120	Amended	21:19 VA.R. 2583	8/29/05
9 VAC 5-80-1140	Amended	21:19 VA.R. 2584	8/29/05
9 VAC 5-80-1160	Amended	21:19 VA.R. 2584	8/29/05
9 VAC 5-80-1170	Amended	21:19 VA.R. 2584	8/29/05
9 VAC 5-80-1280	Amended	21:19 VA.R. 2585	8/29/05
9 VAC 5-80-1290	Amended	21:19 VA.R. 2586	8/29/05
9 VAC 5-80-1300	Amended	21:19 VA.R. 2586	8/29/05
9 VAC 5-80-1320	Amended	21:19 VA.R. 2587	8/29/05
9 VAC 5-91-20	Amended	21:19 VA.R. 2541	6/29/05
9 VAC 5-91-160	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-180	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-740	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-741	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-742	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-743	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-750	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-760	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 20-20-20	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-40	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-60	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-80	Amended	21:20 VA.R. 2669	7/13/05

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-20-100	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-110 through 9 VAC 20-20-150	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-160	Added	21:20 VA.R. 2669	7/13/05
9 VAC 20-30-30	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-50	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-70 through 9 VAC 20-30-120	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-130	Added	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-20	Amended	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-40 through 9 VAC 20-40-150	Amended	21:20 VA.R. 2671-2680	7/13/05
9 VAC 20-40-160	Added	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-20	Amended	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-40 through 9 VAC 20-50-100	Amended	21:20 VA.R. 2680-2693	7/13/05
9 VAC 20-50-110	Added	21:20 VA.R. 2693	7/13/05
9 VAC 20-70-290	Amended	21:20 VA.R. 2693	7/13/05
9 VAC 20-80 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 20-130 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 25-31-10	Erratum	21:13 VA.R. 1941	--
9 VAC 25-31-100	Erratum	21:14 VA.R. 2022	--
9 VAC 25-31-120	Erratum	21:13 VA.R. 1941	--
9 VAC 25-260-5	Amended	21:18 VA.R. 2375	*
9 VAC 25-260-10	Amended	21:18 VA.R. 2375	*
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-50	Amended	21:18 VA.R. 2377	*
9 VAC 25-260-185	Added	21:18 VA.R. 2377	*
9 VAC 25-260-186	Added	21:18 VA.R. 2379	*
9 VAC 25-260-350	Amended	21:18 VA.R. 2379	*
9 VAC 25-720-50	Amended	21:12 VA.R. 1526	3/23/05
9 VAC 25-720-60	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-80	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-80	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-90	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-100	Amended	21:17 VA.R. 2303	6/1/05
9 VAC 25-720-130	Amended	21:12 VA.R. 1528	3/23/05
9 VAC 25-720-130	Amended	21:17 VA.R. 2303	6/1/05
<b>Title 11. Gaming</b>			
11 VAC 10-70-20	Amended	21:22 VA.R. 3094	6/17/05
11 VAC 10-70-30	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-40	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-50	Repealed	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-60	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-70	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-80	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-90	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-170	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-90-10	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-30	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-50	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-180-10	Amended	21:16 VA.R. 2197	5/18/05
11 VAC 10-180-20	Amended	21:16 VA.R. 2193	3/31/03
11 VAC 10-180-20	Amended	21:16 VA.R. 2198	5/18/05

\* Upon filing a notice of EPA approval with the Registrar of Regulations.



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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-180-30	Repealed	21:16 VA.R. 2199	5/18/05
11 VAC 10-180-40	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-50	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-60	Amended	21:16 VA.R. 2194	3/31/03
11 VAC 10-180-60 through 11 VAC 10-180-90	Amended	21:16 VA.R. 2202-2207	5/18/05
11 VAC 10-180-80	Amended	21:16 VA.R. 2196	3/31/03
11 VAC 10-180-85	Added	21:16 VA.R. 2206	5/18/05
11 VAC 10-180-90	Amended	21:16 VA.R. 2197	3/31/03
11 VAC 10-180-100	Added	21:16 VA.R. 2207	5/18/05
11 VAC 10-180-110	Added	21:16 VA.R. 2207	5/18/05
<b>Title 12. Health</b>			
12 VAC 5-410-10	Amended	21:12 VA.R. 1561	5/9/05
12 VAC 5-590-10	Amended	21:13 VA.R. 1829	4/6/05
12 VAC 5-590-140	Amended	21:16 VA.R. 2209	5/18/05
12 VAC 5-590-150	Amended	21:16 VA.R. 2212	5/18/05
12 VAC 5-590-370	Amended	21:13 VA.R. 1835	4/6/05
12 VAC 5-590-410	Amended	21:13 VA.R. 1860	4/6/05
12 VAC 5-590-420	Amended	21:13 VA.R. 1863	4/6/05
12 VAC 5-590-500	Amended	21:13 VA.R. 1879	4/6/05
12 VAC 5-590-530	Amended	21:13 VA.R. 1880	4/6/05
12 VAC 5-590-540	Amended	21:13 VA.R. 1886	4/6/05
12 VAC 5-590-550	Amended	21:13 VA.R. 1890	4/6/05
12 VAC 5-590, Appendix L	Amended	21:13 VA.R. 1891	4/6/05
12 VAC 5-590, Appendix M	Amended	21:13 VA.R. 1897	4/6/05
12 VAC 5-590, Appendix O	Amended	21:13 VA.R. 1901	4/6/05
12 VAC 30-40-290	Amended	21:15 VA.R. 2128	6/20/05
12 VAC 30-40-300	Amended	21:15 VA.R. 2130	6/20/05
12 VAC 30-50-300	Amended	21:22 VA.R. 3098	8/10/05
12 VAC 30-50-490 emer	Amended	21:12 VA.R. 1566	2/1/05-1/31/06
12 VAC 30-50-520 emer	Amended	21:20 VA.R. 2715	5/27/05-5/26/06
12 VAC 30-50-530	Amended	21:22 VA.R. 3098	8/10/05
12 VAC 30-60-40 emer	Amended	21:20 VA.R. 2716	7/1/05-6/30/06
12 VAC 30-60-70	Amended	21:19 VA.R. 2592	8/15/05
12 VAC 30-60-350 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-70-291 emer	Amended	21:20 VA.R. 2720	5/12/05-5/11/06
12 VAC 30-70-301	Amended	21:14 VA.R. 2014	6/6/05
12 VAC 30-70-331	Amended	21:20 VA.R. 2696	7/14/05
12 VAC 30-80-40	Amended	21:15 VA.R. 2121	7/1/05
12 VAC 30-90-41	Amended	21:15 VA.R. 2136	7/1/05
12 VAC 30-90-41 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-120-10 through 12 VAC 30-120-60 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-380 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-120-490 through 12 VAC 30-120-550 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-700 emer	Amended	21:12 VA.R. 1568	2/1/05-1/31/06
12 VAC 30-120-710 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-720 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-730 emer	Amended	21:12 VA.R. 1576	2/1/05-1/31/06
12 VAC 30-120-740 emer	Amended	21:12 VA.R. 1578	2/1/05-1/31/06
12 VAC 30-120-750 emer	Amended	21:12 VA.R. 1579	2/1/05-1/31/06
12 VAC 30-120-752 emer	Amended	21:12 VA.R. 1580	2/1/05-1/31/06
12 VAC 30-120-753 emer	Amended	21:12 VA.R. 1582	2/1/05-1/31/06
12 VAC 30-120-754 emer	Amended	21:12 VA.R. 1583	2/1/05-1/31/06
12 VAC 30-120-756 emer	Amended	21:12 VA.R. 1584	2/1/05-1/31/06
12 VAC 30-120-758 emer	Amended	21:12 VA.R. 1585	2/1/05-1/31/06
12 VAC 30-120-760 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-762 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-764 emer	Amended	21:12 VA.R. 1587	2/1/05-1/31/06
12 VAC 30-120-766 emer	Amended	21:12 VA.R. 1588	2/1/05-1/31/06
12 VAC 30-120-768 emer	Amended	21:12 VA.R. 1590	2/1/05-1/31/06
12 VAC 30-120-770 emer	Amended	21:12 VA.R. 1592	2/1/05-1/31/06
12 VAC 30-120-772 emer	Amended	21:12 VA.R. 1596	2/1/05-1/31/06
12 VAC 30-120-774 emer	Amended	21:12 VA.R. 1597	2/1/05-1/31/06
12 VAC 30-120-776 emer	Amended	21:12 VA.R. 1598	2/1/05-1/31/06
12 VAC 30-120-780 emer	Repealed	21:12 VA.R. 1600	2/1/05-1/31/06
12 VAC 30-120-790 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-900 through 12 VAC 30-120-990 emer	Added	21:12 VA.R. 1601-1619	2/1/05-1/31/06
12 VAC 30-141-200 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-141-500	Amended	21:19 VA.R. 2549	6/29/05
<b>Title 13. Housing</b>			
13 VAC 5-63-110	Erratum	21:14 VA.R. 2021	--
<b>Title 15. Judicial</b>			
15 VAC 5-50-10 through 15 VAC 5-50-210	Repealed	21:17 VA.R. 2304	4/13/05
15 VAC 5-60-10 through 15 VAC 5-60-240	Repealed	21:17 VA.R. 2304	4/13/05
<b>Title 16. Labor and Employment</b>			
16 VAC 25-90-1910.142	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.151	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.268	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1003	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1017	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1018	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1025	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1027	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1028	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1029	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1043	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1044	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1045	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1047	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1048	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1051	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-100-1915.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.62	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1101	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1127	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2903	8/15/05
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 30-20-290	Added	21:21 VA.R. 2904	7/27/05
18 VAC 50-22-100	Amended	21:20 VA.R. 2696	8/1/05
18 VAC 50-22-140	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-170	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-250	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-30-90	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-120	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-130	Amended	21:20 VA.R. 2699	8/1/05
18 VAC 60-20	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-10	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-16	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-17	Added	21:19 VA.R. 2550	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2551	6/29/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-20	Amended	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-50 through 18 VAC 60-20-90	Amended	21:19 VA.R. 2551-2552	6/29/05
18 VAC 60-20-91	Added	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-105	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-106	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-106	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-107	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-107	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-110	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-120	Amended	21:19 VA.R. 2553	6/29/05
18 VAC 60-20-130	Repealed	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-135	Added	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-190	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-195	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 62-20-10 through 18 VAC 62-20-180	Added	21:20 VA.R. 2700-2706	7/15/05
18 VAC 65-20-15	Added	21:18 VA.R. 2380	6/15/05
18 VAC 75-40-10	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-20	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-30	Added	21:16 VA.R. 2215	5/18/05
18 VAC 76-20-60	Amended	21:19 VA.R. 2556	6/29/05
18 VAC 76-40-10	Amended	21:19 VA.R. 2596	8/15/05
18 VAC 85-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-20-30	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-100	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-280	Amended	21:22 VA.R. 3105	9/26/05
18 VAC 85-20-330	Amended	21:19 VA.R. 2597	8/15/05
18 VAC 90-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-20-10	Amended	21:21 VA.R. 2906	7/27/05
18 VAC 90-20-181	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-182	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-183	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-230	Amended	21:20 VA.R. 2708	7/13/05
18 VAC 90-20-280	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-300	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-30-80	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-100	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-110	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-120	Amended	21:21 VA.R. 2909	7/27/05
18 VAC 95-10-10	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-10-20	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-20-10	Amended	21:18 VA.R. 2381	7/1/05
18 VAC 95-20-471	Added	21:19 VA.R. 2557	6/29/05
18 VAC 100-20-53	Added	21:20 VA.R. 2709	8/1/05
18 VAC 100-20-54	Amended	21:20 VA.R. 2708	8/1/05
18 VAC 100-20-81	Amended	21:20 VA.R. 2709	8/1/05
18 VAC 105-20-41	Added	21:18 VA.R. 2382	6/15/05
18 VAC 110-20-15	Added	21:15 VA.R. 2122	5/4/05
18 VAC 112-20-26	Added	21:19 VA.R. 2557	6/29/05
18 VAC 115-15-10 through 18 VAC 115-15-30	Added	21:22 VA.R. 3099	8/10/05
18 VAC 120-40-50	Amended	21:20 VA.R. 2712	8/1/05
18 VAC 125-15-10	Added	21:20 VA.R. 2712	7/13/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 125-15-20	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-30	Added	21:20 VA.R. 2712	7/13/05
18 VAC 140-20-171	Added	21:21 VA.R. 2913	7/27/05
18 VAC 150-20-15	Added	21:21 VA.R. 2913	7/27/05
<b>Title 19. Public Safety</b>			
19 VAC 30-70-210	Amended	21:18 VA.R. 2382	4/15/05
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-315 (Forms)	Amended	21:19 VA.R. 2603	--
20 VAC 5-315-20	Amended	21:18 VA.R. 2387	4/26/05
20 VAC 5-315-30	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-40	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-90	Repealed	21:18 VA.R. 2389	4/26/05
<b>Title 22. Social Services</b>			
22 VAC 15-30-10	Amended	21:12 VA.R. 1528	6/1/05
22 VAC 15-30-30	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-50	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-70	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-80	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-90	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-110	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-140	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-150	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-160	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-180	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-190	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-200	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-200	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-230	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-250	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-260	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-290	Amended	21:12 VA.R. 1538	6/1/05
22 VAC 15-30-310 through 22 VAC 15-30-390	Amended	21:12 VA.R. 1538-1542	6/1/05
22 VAC 15-30-410	Amended	21:12 VA.R. 1542	6/1/05
22 VAC 15-30-430	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-440	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-451	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-461	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-471	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-490	Amended	21:12 VA.R. 1546	6/1/05
22 VAC 15-30-500	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-510	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-520	Amended	21:12 VA.R. 1548	6/1/05
22 VAC 15-30-540 through 22 VAC 15-30-670	Amended	21:12 VA.R. 1548-1556	6/1/05
22 VAC 15-30-575	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-585	Added	21:12 VA.R. 1550	6/1/05
22 VAC 15-51-50	Amended	21:20 VA.R. 2713	7/13/05
22 VAC 30-40-10	Amended	21:16 VA.R. 2215	5/18/05
22 VAC 30-40-70	Amended	21:16 VA.R. 2217	5/18/05
22 VAC 30-40-130	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-140	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-150	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 40-90-10 through 22 VAC 40-90-60	Amended	21:18 VA.R. 2393	7/1/05
22 VAC 40-90-70	Added	21:18 VA.R. 2395	7/1/05
22 VAC 40-170-10	Amended	21:19 VA.R. 2558	8/1/05
22 VAC 40-170-20	Repealed	21:19 VA.R. 2559	8/1/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-170-30 through 22 VAC 40-170-210	Amended	21:19 VA.R. 2560-2567	8/1/05
22 VAC 40-170-230	Amended	21:19 VA.R. 2567	8/1/05
22 VAC 40-191-40	Amended	21:18 VA.R. 2395	7/1/05
22 VAC 40-191-50	Amended	21:18 VA.R. 2399	7/1/05
22 VAC 40-191-90	Amended	21:18 VA.R. 2400	7/1/05
22 VAC 40-660-10 through 22 VAC 40-660-100	Repealed	21:19 VA.R. 2568	8/1/05
22 VAC 40-661-10 through 22 VAC 40-661-90	Added	21:19 VA.R. 2568-2572	8/1/05
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-41-30	Amended	21:13 VA.R. 1911	4/6/05
24 VAC 30-41-50	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-110	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-190	Amended	21:13 VA.R. 1914	4/6/05
24 VAC 30-41-210	Amended	21:13 VA.R. 1915	4/6/05
24 VAC 30-41-220	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-230	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-250	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-280	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-290	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-300	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-310	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-320	Amended	21:13 VA.R. 1919	4/6/05
24 VAC 30-41-350	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-430	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-500	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-510	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-520	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-530	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-580	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-650	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-660	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-680	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-91-10	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-110	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-130	Erratum	21:12 VA.R. 1776	--
24 VAC 30-620-10	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:22 VA.R. 3099	8/20/05

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF NURSING

#### Initial Agency Notice

Title of Regulation: **18 VAC 90-20. Regulations Governing the Practice of Nursing.**

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

Name of Petitioner: Barbara E. Sorenson.

Nature of Petitioner's Request: To amend regulations to establish an inactive license in nursing.

Agency's Plan for Disposition of Request: The petition for rulemaking will be published in the Register of Regulations and sent to interested parties with a request for comments for 30 days. The board will consider the request at its meeting on September 20, 2005, and determine whether to initiate rulemaking.

Public comments may be submitted until August 24, 2005.

Agency Contact: Jay P. Douglas, Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, or e-mail [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

VA.R. Doc. No. R05-255; Filed July 1, 2005, 3:48 p.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

† Indicates entries since last publication of the *Virginia Register*

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-140, Regulations for Emissions Trading (Rev. E05)**. The purpose of the proposed action is to establish requirements to reduce SO<sub>x</sub> and NO<sub>x</sub> emissions in order to eliminate their significant contribution to nonattainment or interference with maintenance of the national ambient air quality standards in downwind states and to protect Virginia's air quality and its natural resources.

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

Public participation: The department is soliciting comments on the (i) intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) impacts of the proposed regulation on farm and forest land preservation, and (iii) costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 5 p.m. on August 10, 2005, in order to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240 (e-mail: memajor@deq.virginia.gov) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the information specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held by the department to receive comments on and to discuss the intended action. Information on the date, time, and place of the meeting is published in the Calendar of Events section of the Virginia Register. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Participatory approach: Subject to the stipulations noted below, the department will form an ad hoc advisory group to assist in the development of the regulation. To be on the group, notify the agency contact in writing by 5 p.m. on July 22, 2005, and provide name, address, phone number and the organization represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. To be on the group, attendance at the public meeting is encouraged. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. At its discretion, the department may dispense with the use of an ad hoc advisory group if it receives less than five applications. Multiapplications from a single company, organization, group or other entity count as one for purposes of making the decision specified in the preceding sentence.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; Clean Air Act (§§ 108, 109, 110 and 302); 40 CFR Part 51.

Public comments may be submitted until August 10, 2005.

**Contact:** Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail mlmajor@deq.virginia.gov.

VA.R. Doc. No. R05-230; Filed June 21, 2005, 4:08 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled **9 VAC 5-140, Regulations for Emissions Trading (Rev. F05)**. The purpose of the proposed action is to establish requirements to control mercury emissions in order to reduce the regional deposition of mercury.

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

Public participation: The department is soliciting comments on the (i) intended regulatory action, to include ideas to assist the department in the development of the proposal, (ii) impacts of the proposed regulation on farm and forest land preservation, and (iii) costs and benefits of the alternatives stated in this notice or other alternatives. All comments must be received by the department by 5 p.m. on August 10, 2005, in order to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission, e-mail, or by personal appearance at the meeting, but must be submitted to Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental

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# Notices of Intended Regulatory Action

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Quality, P.O. Box 10009, Richmond, Virginia, 23240 (e-mail: memajor@deq.virginia.gov) (fax number: 804-698-4510). Comments by facsimile transmission will be accepted only if followed by receipt of the signed original within one week. Comments by e-mail will be accepted only if the name, address and phone number of the commenter are included. All testimony, exhibits and documents received are a matter of public record. Only comments (i) related to the information specified in this notice and (ii) provided in accordance with the procedures specified in this notice will be given consideration in the development of the proposed regulation amendments.

A public meeting will be held by the department to receive comments on and to discuss the intended action. Information on the date, time, and place of the meeting is published in the Calendar of Events section of the Virginia Register. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Participatory approach: Subject to the stipulations noted below, the department will form an ad hoc advisory group to assist in the development of the regulation. To be on the group, notify the agency contact in writing by 5 p.m. on July 22, 2005, and provide name, address, phone number and the organization represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. To be on the group, attendance at the public meeting is encouraged. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. At its discretion, the department may dispense with the use of an ad hoc advisory group if it receives less than five applications. Multiapplications from a single company, organization, group or other entity count as one for purposes of making the decision specified in the preceding sentence.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; Clean Air Act (§§ 108, 109, 110 and 302); 40 CFR Part 51.

Public comments may be submitted until August 10, 2005.

**Contact:** Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail mlmajor@deq.virginia.gov.

VA.R. Doc. No. R05-231; Filed June 21, 2005, 4:09 p.m.

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## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled

**12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services.** The purpose of the proposed action is to discontinue coverage of erectile dysfunction drugs for sex offenders.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

**Contact:** Brian McCormick, Policy and Research Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680 or e-mail brian.mccormick@dmas.virginia.gov.

VA.R. Doc. No. R05-212; Filed May 27, 2005, 9:18 a.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services and 12 VAC 30-141, Family Access to Medical Insurance Security Plan.** The purpose of the proposed action is to reshape the prior authorization regimen for dental services.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 24, 2005.

**Contact:** Tammy Driscoll, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-1567, FAX (804) 786-1680 or e-mail tammy.driscoll@dmas.virginia.gov.

VA.R. Doc. No. R05-248; Filed June 30, 2005, 4:37 p.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates: Inpatient Hospital Care.** The purpose of the proposed action is to implement new supplemental payments for certain hospitals.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 24, 2005.

**Contact:** Steve Ford, Provider Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300,



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# Notices of Intended Regulatory Action

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Richmond, VA 23219, telephone (804) 786-7355, FAX (804) 786-1680 or e-mail [steve.ford@dmas.virginia.gov](mailto:steve.ford@dmas.virginia.gov).

VA.R. Doc. No. R05-250; Filed July 1, 2005, 4:41 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care; 12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care; and 12 VAC 30-90, Methods and Standards for Establishing Payment Rates for Long-Term Care.** The purpose of the proposed action is to comply with recent CMS restrictions on the financing of supplemental payments for services provided by nonstate public hospitals and nursing homes and state hospitals.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 24, 2005.

**Contact:** William Lessard, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680 or e-mail [william.lessard@dmas.virginia.gov](mailto:william.lessard@dmas.virginia.gov).

VA.R. Doc. No. R05-249; Filed June 30, 2005, 4:41 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-120, Waivered Services.** The purpose of the proposed action is to establish a new program, the Day Support Waiver for Individuals with Mental Retardation.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 24, 2005.

**Contact:** Suzanne Klaas, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-225-4239, FAX (804) 786-1680 or e-mail [suzanne.klaas@dmas.virginia.gov](mailto:suzanne.klaas@dmas.virginia.gov).

VA.R. Doc. No. R05-247; Filed June 30, 2005, 4:38 p.m.

## TITLE 16. LABOR AND EMPLOYMENT

### DEPARTMENT OF LABOR AND INDUSTRY

#### Safety and Health Codes Board

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to consider promulgating regulations entitled **16 VAC 25-75, Telecommunications, General, Approach Distances** and **16 VAC 25-90, Federal Identical General Industry Standards.** The purpose of the proposed action is to promulgate a new Virginia (VOSH) regulation and amend the General Industry Standard for Telecommunications regulation 16 VAC 25-90-1910.268 (b) (7) (i). The new telecommunications regulation is intended to provide the same degree of protection to telecommunications employees working in similar proximity to power lines as their counterparts under the electrical power generation, transmission and distribution standard, General Industry 16 VAC 25-1910.269 (l) (2) (i).

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: § 40.1-22 of the Code of Virginia; Occupational Safety and Health Act of 1970 (Pub.L. 91-596).

Public comments may be submitted until August 11, 2005.

**Contact:** John Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418 or e-mail [john.crisanti@doli.virginia.gov](mailto:john.crisanti@doli.virginia.gov).

VA.R. Doc. No. R05-234; Filed June 22, 2005, 9:47 a.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to consider amending regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to consider an expansion of duties performed by qualified dental assistants to include such tasks as supragingival scaling and carving and packing amalgam.

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

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

Public comments may be submitted until August 24, 2005.

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# Notices of Intended Regulatory Action

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**Contact:** Sandra Reen, Executive Director, Board of Dentistry, 6606 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943 or e-mail [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

VA.R. Doc. No. R05-242; Filed June 30, 2005, 10:06 a.m.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled **18 VAC 65-40, Resident Trainee Program for Funeral Services**. The purpose of the proposed action is to allow a resident trainee to complete requirements for 3,000 hours in combination with school or work. The amendments will make other changes to add flexibility and accountability.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until August 24, 2005.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9943 or e-mail [elizabeth.young@dhp.virginia.gov](mailto:elizabeth.young@dhp.virginia.gov).

VA.R. Doc. No. R05-254; Filed July 1, 2005, 3:48 p.m.

## BOARD OF MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic**. The purpose of the proposed action is to specify that at least one of the required two years of postgraduate training or study in the United States or Canada must be as an intern or resident in a hospital or health care facility.

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

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

Public comments may be submitted until August 10, 2005.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

VA.R. Doc. No. R05-235; Filed June 22, 2005, 10:01 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic**. The purpose of the proposed action is to clarify ambiguous provisions and specify more clearly the timing of a malpractice report, the definition of a paid claim and the conditions under which a report is required.

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

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

Public comments may be submitted until August 10, 2005.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

VA.R. Doc. No. R05-236; Filed June 22, 2005, 10:01 a.m.

## BOARD OF NURSING

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to consider promulgating regulations entitled **18 VAC 90-60, Regulations Governing the Registration of Medication Aides**. The purpose of the proposed action is to establish the requirements for training programs and for registration, practice and renewal for medication aides.

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

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

Public comments may be submitted until August 24, 2005.

**Contact:** Jay P. Douglas, Executive Director, Board of Nursing, 6606 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9943 or e-mail [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

VA.R. Doc. No. R05-241; Filed June 30, 2005, 10:06 a.m.

## BOARD OF PHARMACY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider promulgating regulations entitled **18 VAC 110-50, Regulations Governing Wholesale Distributors, Manufacturers and Warehousemen**. The purpose of the proposed action is to add a requirement for a pedigree system in wholesale distribution of prescription drugs.

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# Notices of Intended Regulatory Action

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The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until August 24, 2005.

**Contact:** Elizabeth Scott Russell, R.Ph., Executive Director, Board of Pharmacy, 6606 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313 or e-mail [scottirussell@dhp.virginia.gov](mailto:scottirussell@dhp.virginia.gov).

VA.R. Doc. No. R05-253; Filed July 1, 2005, 3:48 p.m.

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## TITLE 22. SOCIAL SERVICES

### CHILD DAY-CARE COUNCIL

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to consider amending regulations entitled **22 VAC 15-10, Public Participation Guidelines**. The purpose of the proposed action is to make editorial changes throughout the regulation to improve clarity. 22 VAC 15-10-40 will be amended to reflect the provisions of Chapter 241 of the 2002 Acts of Assembly, which changed the provisions for a person to petition the council to take rulemaking action. 22 VAC 10-15-50 will be amended to reflect the statutory changes of Chapter 717 of the 1995 Acts of Assembly, which make publication of proposed regulations in a newspaper of general circulation discretionary rather than mandatory.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 2.2-4007 and 63.2-1735 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

**Contact:** Richard Martin, Manager, Office of Legislative and Regulatory Affairs, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7902, FAX (804) 726-7906 or email [richard.martin@dss.virginia.gov](mailto:richard.martin@dss.virginia.gov).

VA.R. Doc. No. R05-223; Filed June 10, 2005, 8:26 a.m.

## STATE BOARD OF SOCIAL SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-41, Neighborhood Assistance Tax Credit Program**. The purpose of the proposed action is to amend the regulation for the Neighborhood Assistance Program (NAP). NAP is a state tax credit program established by the General Assembly in 1981. The program uses tax credits as an incentive for businesses and, with certain restrictions, individuals, to make

donations to eligible projects. To be an eligible project an organization must be a 501(c)(3) or (4) whose primary function is providing assistance to low-income individuals and families. The amendments will make several technical and clarifying changes, including updating code citations and correcting inconsistencies in terminology. In addition, amendments are being proposed to ensure the availability of tax credits and their equitable distribution among approved projects. Also, amendments are being proposed to ensure fairness in the valuation of certain donated items and to improve the process for determining eligibility of organizations applying to participate in NAP.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 63.2-217 and 63.2-2002 of the Code of Virginia.

Public comments may be submitted until August 10, 2005.

**Contact:** J. Mark Grigsby, Director, Office of Community Services, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7922, FAX (804) 726-7946 or email [james.grigsby@dss.virginia.gov](mailto:james.grigsby@dss.virginia.gov).

VA.R. Doc. No. R05-232; Filed June 22, 2005, 8:59 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-80, General Procedures and Information for Licensure**. The purpose of the proposed action is to conform the regulation with legislative changes passed by the 2005 General Assembly relating to terms of license, administrative sanctions, and hearings procedures.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: §§ 63.2-217, 63.2-1732, 63.2-1733 and 63.2-1734 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

**Contact:** Kathryn Thomas, Program Development Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7158, FAX (804) 726-7132 or email [kathryn.thomas@dss.virginia.gov](mailto:kathryn.thomas@dss.virginia.gov).

VA.R. Doc. No. R05-222; Filed June 10, 2005, 8:26 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider adopting regulations entitled **22 VAC 40-211, Resource, Foster and Adoptive Family Home Approval Standards**. The purpose of the proposed action is to adopt a new regulation specific to the approval requirements for resource, foster and adoptive family homes providers approved by local departments of social services. The new regulation will include many of the provisions from 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, which is being repealed. The new

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# Notices of Intended Regulatory Action

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regulation will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until August 10, 2005.

**Contact:** Therese Wolf, Foster Care Program Supervisor, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7522, FAX (804) 726-7499 or email [therese.wolf@dss.virginia.gov](mailto:therese.wolf@dss.virginia.gov).

VA.R. Doc. No. R05-233; Filed June 22, 2005, 8:59 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled **22 VAC 40-770, Standards and Regulations for Agency Approved Providers** and adopting regulations entitled **22 VAC 40-771, Adult Services Approved Providers**. The purpose of the proposed action is to repeal the existing regulation 22 VAC 40-770 and replace it with a new regulation. 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, includes generic provisions that apply to all providers approved by local departments of social services, including adult services, child care, foster care and adoptive home providers. Because of the uniqueness of each type of provider, such a format is not longer effective. The new regulation 22 VAC 40-771, Adult Services Approved Providers, will address only providers contracted through the adult services program. Separate regulations will be proposed for child care and permanency (foster care and adoptive home) providers.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until August 10, 2005.

**Contact:** Sue Murdock, Adult Services Program Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7616, FAX (804) 726-7895 or email [susan.murdock@dss.virginia.gov](mailto:susan.murdock@dss.virginia.gov).

VA.R. Doc. No. R05-227; Filed June 14, 2005, 2:17 p.m.

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## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### DEPARTMENT OF MOTOR VEHICLES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Motor Vehicles

intends to consider promulgating regulations entitled **24 VAC 20-81, Hauling Permits**. The purpose of the proposed action is to establish requirements for the issuance of permits to haul overweight and over dimension vehicles over the highways of Virginia.

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

Statutory Authority: § 46.2-1128 of the Code of Virginia.

Public comments may be submitted until July 27, 2005.

**Contact:** Ron Thompson, Senior Policy Analyst, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1844, FAX (804) 367-6631, toll-free (800) 435-5137 or email [ronald.thompson@dmv.virginia.gov](mailto:ronald.thompson@dmv.virginia.gov).

VA.R. Doc. No. R05-220; Filed June 8, 2005, 10 a.m.

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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.  
Language which has been stricken indicates proposed text for deletion.

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

**REGISTRAR'S NOTICE:** The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9 VAC 25-115. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities (amending 9 VAC 25-115-10 through 9 VAC 25-115-50).**

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

**Public Hearing Date:** August 30, 2005 - 10 a.m.

Public comments may be submitted until September 23, 2005.

(See Calendar of Events section for additional information)

**Agency Contact:** Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail mbgregory@deq.virginia.gov.

#### Summary:

*The State Water Control Board proposed to amend the VPDES Permit for Seafood Processing Facilities in order to reissue the general permit for another five-year term. The reissued general permit will replace current General Permit VAG52, which will expire on July 24, 2006.*

*The existing regulation sets forth guidelines for the permitting of wastewater discharges from seafood processors and establishes limitations and monitoring requirements and minimum information requirements for all requests for coverage under the general permit.*

### 9 VAC 25-115-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

"Industrial activity" means the facilities classified under SIC Code 2091 or 2092.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Seafood processing facility" means any facility classified under SIC Code 2091, 2092, 5142 or 5146, except a mechanized clam facility, which processes or handles seafood intended for human consumption or as bait. Seafood includes but is not limited to crabs, oysters, hand-shucked clams, scallops, squid, eels, turtles, fish, conchs and crayfish.

"SIC" means the Standard Industrial Classification Code or Industrial Grouping from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 edition.

"Significant materials" includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production (except oyster, clam or scallop shells); hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 USC § 9601); any chemical the facility is required to report pursuant to § 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9 VAC 25-31-10 et seq. For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts (except for oyster, clam or scallop shells) used or created by the facility; material handling sites; refuse sites;

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# Proposed Regulations

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sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage area (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct or waste product (except for oyster, clam or scallop shells). The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

## **9 VAC 25-115-20. Purpose; delegation of authority; effective date of permit.**

A. This general permit regulation governs the discharge of wastewater and storm water associated with industrial activity from seafood processing facilities. It does not cover wastewater discharges from mechanized clam processing facilities.

B. The director, or an authorized representative, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on July 24, 2001, and will expire ~~five years after the effective date on July 23, 2011~~. For any covered owner, this general permit is effective upon compliance with all the provisions of 9 VAC 25-115-30 and the receipt of this general permit.

## **9 VAC 25-115-30. Authorization to discharge.**

Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files ~~and receives acceptance by the director of the~~ a registration statement ~~of in accordance with 9 VAC 25-115-40 that is accepted by the board~~, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-115-50, and provided that:

1. Individual permit. The owner shall not have been required to obtain an individual permit as may be required in the VPDES Permit Regulation (9 VAC 25-31-40 ~~et seq.~~).

2. Prohibited discharge locations. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies that prohibit such discharges.

3. *Nutrient discharges. Annual mass loadings of total nitrogen in excess of 2,300 pounds per year or of total phosphorus in excess of 300 pounds per year are not authorized by this general permit.*

Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

## **9 VAC 25-115-40. Registration statement.**

The owner shall file a complete general VPDES permit registration statement, which will serve as a notice of intent for coverage under the general permit for seafood processors. Any owner of an existing facility covered by the general VPDES permit for seafood processing facilities that became effective on July 24, ~~1996~~ 2001, who wishes to remain covered by this general permit shall file a new registration statement ~~by June 1, 2004~~, *in accordance with the general permit requirements* in order to avoid a lapse in coverage. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for operation of the new discharge. Any owner of an existing seafood processing facility covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing seafood processing facility not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. After coverage under the general permit is obtained, an amended registration statement must be submitted at least 30 days prior to commencing operation of any new process not included on the original registration statement. The registration statement shall contain the following information:

~~A.~~ 1. Facility name, owner, mailing address and telephone number;

~~B.~~ 2. Facility location;

~~C.~~ 3. Facility operator name, address and telephone number if different than owner;

~~D.~~ 4. Does the facility discharge to surface waters? Name of receiving stream if yes;

~~E.~~ 5. Does the facility have a current VPDES Permit? Permit Number if yes;

~~F.~~ 6. The original date of construction of the seafood processing facility building and dates and description of all subsequent facility construction.

~~G.~~ 7. A USGS topographic map showing the facility location;

~~H.~~ 8. Facility SIC Code(s);

~~I.~~ 9. Nature of business at facility;

~~J.~~ 10. Discharge outfall information;

~~K.~~ 11. Facility maximum production information;

~~L.~~ 12. Facility line drawing;

~~M. Multi-process simultaneous discharge information~~ 13. *Discharge and outfall descriptions for different seafood processes that operate simultaneously;*

~~N.~~ 14. Treatment and solid waste disposal information;

~~O.~~ 15. Information on use of chemicals at the facility;

~~P.~~ 16. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a

# Proposed Regulations

system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false

information including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with 9 VAC 25-31-110.

**9 VAC 25-115-50. General permit.**

Any owner whose registration statement is accepted by the director will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the VPDES Permit Regulation, 9 VAC 25-31.

General Permit No.: VAG52  
 Effective Date: July 24, ~~2004~~ 2006  
 Expiration Date: July 24, ~~2006-23~~, 2011

GENERAL PERMIT FOR SEAFOOD PROCESSING FACILITY

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of seafood processing facilities, other than mechanized clam processing facilities, are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Storm Water Pollution Prevention Plans, and Part III - Conditions Applicable to All VPDES Permits, as set forth herein.

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - SEAFOOD PROCESSING NOT LIMITED ELSEWHERE IN PART I. A.- ~~ALL~~ SIC 2091, 2092, 5142 and 5146 SOURCES EXCEPT MECHANIZED CLAM FACILITIES

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from seafood processing not otherwise classified from outfall(s)

\_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/YEAR	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/YEAR	Grab
TSS	NL	NL	NA	NA	NA	1/YEAR	Comp
Oil and Grease	NL	NL	NA	NA	NA	1/YEAR	Grab
Production	NA	NL	NA	NA	NA	1/YEAR	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by the end of the year and reported by the 10th of January of the following year on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL (HANDPICKED) BLUE CRAB PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 3,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

2. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional blue crab processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	0.74	2.2	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.20	0.60	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL (HANDPICKED) BLUE CRAB PROCESSING - ALL NEW SOURCES

3. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional blue crab processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	0.15	0.30	NA	1/3 Months	Comp
TSS	NL	NL	0.45	0.90	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.065	0.13	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.



PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BLUE CRAB PROCESSING - ALL EXISTING SOURCES

4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized blue crab processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	12.0	36.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	4.2	13.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7.5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BLUE CRAB PROCESSING - ALL NEW SOURCES

5. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized blue crab processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	2.5	5.0	NA	1/3 Months	Comp
TSS	NL	NL	6.3	13	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.3	2.6	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7.5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - NONBREADED SHRIMP PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 2,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

6. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from non-breaded shrimp processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	38.0	110	NA	1/3 Months	Comp
Oil and Grease	NL	NL	12.0	36.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - NONBREADED SHRIMP PROCESSING - ALL NEW SOURCES

7. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from nonbreaded shrimp processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	25.0	63.0	NA	1/3 Months	Comp
TSS	NL	NL	10.0	25.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.6	4.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - BREADED SHRIMP PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 2,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

8. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from breaded shrimp processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	93.0	280	NA	1/3 Months	Comp
Oil and Grease	NL	NL	12.0	36.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7.5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - BREADED SHRIMP PROCESSING - ALL NEW SOURCES

9. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from breaded shrimp processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	40.0	100	NA	1/3 Months	Comp
TSS	NL	NL	22.0	55.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.5	3.8	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7.5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - TUNA PROCESSING - ALL EXISTING SOURCES

10. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from tuna processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	3.3	8.3	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.84	2.1	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - TUNA PROCESSING - ALL NEW SOURCES

11. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from tuna processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	8.1	20.0	NA	1/3 Months	Comp
TSS	NL	NL	3.0	7.5	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.76	1.9	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL BOTTOM FISH PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 4,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

12. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional bottom fish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	2.0	3.6	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.55	1.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL BOTTOM FISH PROCESSING - ALL NEW SOURCES

13. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional bottom fish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	0.71	1.2	NA	1/3 Months	Comp
TSS	NL	NL	0.73	1.5	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.042	0.077	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

# Proposed Regulations

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BOTTOM FISH PROCESSING - ALL EXISTING SOURCES

14. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized bottom fish processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	12.0	22.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	3.9	9.9	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BOTTOM FISH PROCESSING - ALL NEW SOURCES

15. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized bottom fish processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	7.5	13.0	NA	1/3 Months	Comp
TSS	NL	NL	2.9	5.3	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.47	1.2	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

# Proposed Regulations

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED CLAM PROCESSING - EXISTING SOURCES WHICH PROCESS MORE THAN 4,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

16. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked clam processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	18.0	59.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.23	0.60	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED CLAM PROCESSING - ALL NEW SOURCES

17. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked clam processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	17.0	55.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.21	0.56	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

# Proposed Regulations

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED OYSTER PROCESSING - EXISTING SOURCES WHICH PROCESS MORE THAN 1,000 LBS OF PRODUCT PER DAY ON ANY DAY

18. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked oyster processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	16.0	23.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.77	1.1	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED OYSTER PROCESSING - ALL NEW SOURCES

19. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked oyster processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	16.0	23.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.77	1.1	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.



# Proposed Regulations

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - STEAMED AND CANNED OYSTER PROCESSING (Mechanized Shucking) - ALL EXISTING SOURCES

20. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized oyster processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	190	270	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.7	2.3	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - STEAMED AND CANNED OYSTER PROCESSING (MECHANIZED SHUCKING) - ALL NEW SOURCES

21. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized oyster processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	17.0	67.0	NA	1/3 Months	Comp
TSS	NL	NL	39.0	56.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.42	0.84	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

# Proposed Regulations

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - SCALLOP PROCESSING - ALL EXISTING SOURCES

22. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from scallop processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	1.4	5.7	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.23	7.3	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - SCALLOP PROCESSING - ALL NEW SOURCES

23. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from scallop processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	1.4	5.7	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.23	7.3	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - FARM-RAISED CATFISH PROCESSING - EXISTING SOURCES WHICH PROCESS MORE THAN 3,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

24. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from farm-raised catfish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	9.2	28	NA	1/3 Months	Comp
Oil and Grease	NL	NL	3.4	10.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - FARM-RAISED CATFISH PROCESSING - ALL NEW SOURCES

25. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from farm-raised catfish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	2.3	4.6	NA	1/3 Months	Comp
TSS	NL	NL	5.7	11.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.45	0.90	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HERRING PROCESSING - EXISTING SOURCES

26. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from herring processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	24	32	NA	1/3 Months	Comp
Oil and Grease	NL	NL	10	27	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HERRING PROCESSING - ALL NEW SOURCES

27. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from herring processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			Sample Frequency	Sample Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	15	16	NA	1/3 Months	Comp
TSS	NL	NL	5.2	7.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.1	2.9	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Production - see Special Condition No. 7 5.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## B. Special conditions.

1. No sewage shall be discharged from a point source to surface waters at this facility except under the provisions of another VPDES permit specifically issued for that purpose.

2. There shall be no chemicals added to the water or waste that ~~may to be discharged, including sodium tripolyphosphate, other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the Regional Office Director.~~

3. Wastewater should be reused or recycled ~~whenever feasible to the maximum extent practicable.~~

4. The permittee shall comply with the following solids management plan:

a. There shall be no discharge of floating solids or visible foam in other than trace amounts.

b. All floors, machinery, conveyor belts, dock areas, etc. shall be dry swept or dry brushed prior to washdown.

c. All settling basins shall be cleaned frequently in order to achieve effective settling.

d. All solids resulting from the seafood processes covered under this general permit, other than oyster, clam or scallop shells, shall be handled, stored and disposed of so as to prevent a discharge to state waters of such solids or industrial wastes or other wastes from those solids.

e. The permittee shall install and properly maintain ~~whatever wastewater treatment process is necessary in order to remove organic solids present in the wastewater that may settle and accumulate on the substrate of the receiving waters in other than trace amounts. By products used in a value added process, such as seasonings or breeding, may be included in the discharge in incidental quantities.~~

f. All employees shall receive training relative to preventive measures taken to control the release of solids from the facility into surface waters.

~~5. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard, limitation or prohibition for a pollutant which is promulgated or approved under § 307(a)(2) of the Clean Water Act (33 USC § 1317(a)(2)), if the effluent standard, limitation or prohibition so promulgated or approved:~~

~~a. Is more stringent than any effluent limitation on the pollutant already in the permit; or~~

~~b. Controls any pollutant not limited in the permit.~~

6. 5. Production to be reported and used in calculating effluent discharge levels in terms of kg/kg shall be the weight in kilograms of raw material processed, in the form in which it is received at the processing plant, on the day of effluent sampling, except for the hand-shucked oyster, steamed and canned oyster, and scallop processing subcategories, for which production shall mean the weight of oyster or scallop meat after processing. The effluent

levels in terms of kg/kg shall be calculated by dividing the measured pollutant load in kg/day by the production level in kg (thousands of kilograms).

7. 6. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur that would result in the discharge on a routine or frequent basis of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter (100 ug/l);

(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge on a nonroutine or infrequent basis of a toxic pollutant that is not limited in the permit if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter (500 ug/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

## PART II STORM WATER POLLUTION PREVENTION PLANS

A storm water pollution prevention plan (*SWPPP*) shall be developed for each facility covered by this permit, which has storm water discharges and is classified under SIC Code 2091 or 2092.

~~Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.~~

### A. Deadlines for plan preparation and compliance.

~~1. Existing facilities and new facilities that begin operation on or before July 24, 2001, shall prepare and implement a plan incorporating the storm water pollution prevention plan~~

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requirements of this permit, if not included in an existing plan, as expeditiously as practicable, but not later than six months following notification of coverage under the general permit. Existing storm water pollution prevention plans being implemented as of July 24, 2001, shall continue to be implemented until a new plan, if required, is developed and implemented.

2. Facilities that begin operation after July 24, 2001, shall prepare and implement a plan incorporating the requirements of this permit prior to submitting the registration statement.

3. Upon a showing of good cause, the director may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity that submits a registration statement in accordance with the registration requirements.

## B. Signature and plan review.

1. The plan shall be signed in accordance with Part III K (signatory requirements), and be retained on site at the facility covered by this permit in accordance with Part III B (records) of this permit.

2. The permittee shall make plans available to the department upon request.

3. The director may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit that are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the director, or as otherwise provided by the director, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

C. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II D 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity.

D. Contents of plan. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. Description of potential pollutant sources. Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

### a. Drainage.

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II D 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. The map must indicate all outfall locations and discharge types in the drainage area of the storm water outfall.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

c. Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that

otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. ~~Sampling data.~~ A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. ~~Risk identification and summary of potential pollutant sources.~~ A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

3. ~~Measures and controls.~~ Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. ~~Good housekeeping.~~ Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

b. ~~Preventive maintenance.~~ A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

c. ~~Spill prevention and response procedures.~~ Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. ~~Inspections.~~ In addition to or as part of the comprehensive site compliance evaluation required under Part II D 4 of this permit, facility personnel who are familiar with the plant operations, best management practices and the storm water pollution prevention plan shall be identified

to inspect designated equipment and areas of the facility where potential for exposure to storm water exists including loading and unloading areas, storage areas and waste management units, at appropriate intervals specified in the plan. A set of tracking or follow up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

e. ~~Employee training.~~ Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. ~~Recordkeeping and internal reporting procedures.~~ A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. ~~Sediment and erosion control.~~ The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

h. ~~Management of runoff.~~ The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II D 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. ~~Comprehensive site compliance evaluation.~~ Facility personnel who are familiar with the plant operations, best management practices and the storm water pollution prevention plan shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

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a. ~~Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.~~

b. ~~Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with Part II D 2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II D 3 (measures and controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.~~

c. ~~A report summarizing the scope of the inspection, personnel making the inspection, the date or dates of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II D 4 b of this permit shall be made and retained as part of the storm water pollution prevention plan as required in Part III B. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III K (signatory requirements) of this permit and retained as required in Part III B.~~

d. ~~Where compliance evaluation schedules overlap with inspections required under Part II D 3 d (inspections), the compliance evaluation may be conducted in place of one such inspection.~~

5. ~~Consistency with other plans. Storm water pollution prevention plans may reference the requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under § 311 of the Clean Water Act (33 USC § 1321) or Best Management Practices (BMP) Programs otherwise required by a VPDES permit for the facility as long as such requirement is incorporated into the storm water pollution prevention plan.~~

6. ~~Additional requirements for storm water discharges associated with industrial activity that discharge into or through municipal separate storm sewer systems serving a population of 100,000 or more.~~

a. ~~In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water~~

~~management programs developed under VPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the permittee has been notified of such conditions.~~

b. ~~Permittees that discharge storm water associated with industrial activity through a municipal separate storm sewer system serving a population of 100,000 or more, or a municipal system designated by the board, shall make plans available to the municipal operator of the system upon request.~~

*The SWPPP shall be prepared in accordance with good engineering practices and shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the facility. In addition, the plan shall describe and ensure the implementation of practices that will be used to reduce the pollutants in storm water discharges from the facility, and shall assure compliance with the terms and conditions of this permit. Permittees must implement the provisions of the SWPPP as a condition of this permit.*

*The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control (ESC) plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of this section. If an ESC plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan approving authority authorized under the Erosion and Sediment Control Regulations, 4 VAC 50-30. All plans incorporated by reference into the SWPPP become enforceable under this permit.*

*A. Deadlines for plan preparation and compliance.*

*1. Facilities that were covered under the 2001 Seafood Processing General Permit. Owners of facilities that were covered under the 2001 Seafood Processing General Permit who are continuing coverage under this general permit shall update and implement any revisions to the SWPPP not later than December 30, 2006.*

*2. New facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit who elect to be covered under this general permit must prepare and implement the SWPPP prior to submitting the registration statement.*

*3. New owners of existing facilities. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility must update and implement any revisions to the SWPPP within 60 days of the ownership change.*



4. *Extensions.* Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

B. *Contents of the plan.* The plan shall include, at a minimum, the following items:

1. *Pollution prevention team.* The plan shall identify the staff individuals by name or title that comprise the facility's storm water pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, and revising the facility's SWPPP. Responsibilities of each staff individual on the team must be listed.

2. *Site description.* The SWPPP shall include the following:

a. *Activities at the facility.* A description of the nature of the industrial activity(ies) at the facility.

b. *General location map.* A general location map (e.g., USGS quadrangle or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility.

c. *Site map.* A site map identifying the following:

(1) *Directions of storm water flow* (e.g., use arrows to show which ways storm water will flow);

(2) *Locations of all existing structural BMPs;*

(3) *Locations of all surface water bodies;*

(4) *Locations of identified potential pollutant sources and where significant materials are exposed to precipitation;*

(5) *Locations where major spills or leaks have occurred;*

(6) *Locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; and liquid storage tanks;*

(7) *Locations of storm water outfalls and an approximate outline of the area draining to each outfall;*

(8) *Location and description of nonstorm water discharges;*

(9) *Locations of the following activities where such activities are exposed to precipitation: processing and storage areas; access roads, rail cars and tracks; the location of transfer of substance in bulk; and machinery;*

(10) *Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (the permittee may include an evaluation of how the quality of the storm water running onto the facility impacts the facility's storm water discharges).*

d. *Receiving waters and wetlands.* The name of the nearest receiving water(s), including intermittent streams, dry sloughs, arroyos and the areal extent and description of wetland sites that may receive discharges from the facility.

3. *Summary of potential pollutant sources.* The plan shall identify each separate area at the facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to: material handling equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description must include:

a. *Activities in area.* A list of the activities (e.g., material storage, equipment fueling and cleaning, cutting steel beams);

b. *Pollutants.* A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years before being covered under this permit and the present.

4. *Spills and leaks.* The SWPPP must clearly identify areas where potential spills and leaks that can contribute pollutants to storm water discharges can occur and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility to be covered under this permit, the plan must include a list of significant spills and leaks of toxic or hazardous pollutants that occurred during the three-year period prior to the date of the submission of a registration statement. The list must be updated if significant spills or leaks occur in exposed areas of the facility during the term of the permit. Significant spills and leaks include releases of oil or hazardous substances in excess of reportable quantities, and may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

5. *Sampling data.* The plan must include a summary of existing discharge sampling data taken at the facility, and must also include a summary of sampling data collected during the term of this permit.

6. *Storm water controls.* The SWPPP shall include a description of storm water management controls appropriate for the facility. The description of controls shall address the following minimum components:

a. *Description of existing and planned BMPs.* The plan shall describe the type and location of existing nonstructural and structural best management practices (BMPs) selected for each of the areas where industrial materials or activities are exposed to storm water. All the

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areas identified in Part III B 3 (summary of potential pollutant sources) should have a BMP(s) identified for the area's discharges. For areas where BMPs are not currently in place, include a description of appropriate BMPs that will be used to control pollutants in storm water discharges. Selection of BMPs should take into consideration:

- (1) The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;
- (2) Opportunities to combine the dual purposes of water quality protection and local flood control benefits, including physical impacts of high flows on streams (e.g., bank erosion, impairment of aquatic habitat, etc.);
- (3) Opportunities to offset the impact of impervious areas of the facility on ground water recharge and base flows in local streams, taking into account the potential for ground water contamination.

b. *BMP types to be considered.* The permittee must consider the following types of structural, nonstructural and other BMPs for implementation at the facility. The SWPPP shall describe how each BMP is, or will be, implemented. The BMP examples listed below are not intended to be an exclusive list of BMPs that may be used. The permittee is encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for the facility. If BMPs are being used or planned at the facility that are not listed here (e.g., replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), descriptions of them shall be included in this section of the SWPPP.

(1) *Nonstructural BMPs.*

(a) *Good housekeeping.* The permittee must keep all exposed areas of the facility in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges. Common problem areas include around trash containers, storage areas and loading docks. Measures must also include a schedule for regular pickup and disposal of garbage and waste materials and routine inspections for leaks and conditions of drums, tanks and containers.

(b) *Minimizing exposure.* Where practicable, industrial materials and activities should be protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff.

(c) *Preventive maintenance.* The permittee must have a preventive maintenance program that includes timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins), as well as inspection, testing, maintenance and repairing of facility equipment and systems to avoid breakdowns or failures that could result in discharges of pollutants to surface waters.

(d) *Spill prevention and response procedures.* The plan must describe the procedures that will be followed for cleaning up spills or leaks. The procedures and necessary spill response equipment must be made available to those employees who may cause or detect a spill or leak. Where appropriate, the plan must include an explanation of existing or planned material handling procedures, storage requirements, secondary containment, and equipment (e.g., diversion valves), that are intended to minimize spills or leaks at the facility. Measures for cleaning up hazardous material spills or leaks must be consistent with applicable RCRA regulations at 40 CFR Part 264 (2005) and 40 CFR Part 265 (2005).

(e) *Routine facility inspections.* Facility personnel who are familiar with the industrial activity, the BMPs and the storm water pollution prevention plan shall be identified to inspect all areas of the facility where industrial materials or activities are exposed to storm water. These inspections are in addition to, or as part of, the comprehensive site evaluation and must include an evaluation of the existing storm water BMPs. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit. Any deficiencies in the implementation of the SWPPP that are found must be corrected as soon as practicable, but not later than within 14 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections must be documented in the SWPPP, along with any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.

(f) *Employee training.* The SWPPP must describe the storm water employee training program for the facility. The description should include the topics to be covered, such as spill response, good housekeeping, and material management practices, and must identify periodic dates for such training (e.g., every six months during the months of July and January). Employee training must be provided for all employees who work in areas where industrial materials or activities are exposed to storm water, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance people). The training should inform employees of the components and goals of the SWPPP.

(2) *Structural BMPs.*

(a) *Sediment and erosion control.* The plan shall identify areas at the facility that, due to topography, land disturbance (e.g., construction), or other factors, have a potential for significant soil erosion. The plan must identify structural, vegetative, and/or stabilization BMPs that will be implemented to limit erosion.

(b) *Management of runoff.* The plan shall describe the traditional storm water management practices (permanent structural BMPs other than those that control the generation or source(s) of pollutants) that currently exist or that are planned for the facility. These types of BMPs are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. The plan shall provide that all measures that the permittee determines to be reasonable and appropriate, or are required by a state or local authority shall be implemented and maintained. Factors for the permittee to consider when selecting appropriate BMPs should include:

(i) The industrial materials and activities that are exposed to storm water, and the associated pollutant potential of those materials and activities;

(ii) The beneficial and potential detrimental effects on surface water quality, ground water quality, receiving water base flow (dry weather stream flow), and physical integrity of receiving waters. Structural measures should be placed on upland soils, avoiding wetlands and floodplains, if possible.

(c) *Example BMPs.* BMPs that could be used include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff on-site; and sequential systems (which combine several practices).

(d) *Other Controls.* Off-site vehicle tracking of raw, final, or waste materials or sediments, and the generation of dust must be minimized. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas must be minimized. Velocity dissipation devices (or equivalent measures) must be placed at discharge locations and along the length of any outfall channel if they are necessary to provide a nonerosive flow velocity from the structure to a water course.

**C. Maintenance.** All BMPs identified in the SWPPP must be maintained in effective operating condition. If site inspections identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. In the case of nonstructural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

**D. Comprehensive site compliance evaluation.** The permittee shall conduct facility inspections (site compliance evaluations) at least once a year. The inspections must be done by qualified personnel who may be either facility employees or outside constituents hired by the facility. The inspectors must be familiar with the industrial activity, the BMPs and the

SWPPP, and must possess the skills to assess conditions at the facility that could impact storm water quality, and to assess the effectiveness of the BMPs that have been chosen to control the quality of the storm water discharges. If more frequent inspections are conducted, the SWPPP must specify the frequency of inspections.

1. *Scope of the compliance evaluation.* Inspections must include all areas where industrial materials or activities are exposed to storm water and areas where spills and leaks have occurred within the past three years. Inspectors should look for:

a. Industrial materials, residue or trash on the ground that could contaminate or be washed away in storm water;

b. Leaks or spills from industrial equipment, drums, barrels, tanks or similar containers;

c. Off-site tracking of industrial materials or sediment where vehicles enter or exit the site;

d. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas;

e. Evidence of, or the potential for, pollutants entering the drainage system.

Results of both visual and any analytical monitoring done during the year must be taken into consideration during the evaluation. Storm water BMPs identified in the SWPPP must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to see whether BMPs are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations must be inspected if possible.

2. Based on the results of the inspection, the SWPPP shall be modified as necessary. Revisions to the SWPPP shall be completed within two weeks following the inspection, unless permission for a later date is granted in writing by the director. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed before the next anticipated storm event, if practicable, but not more than 12 weeks after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by the director;

3. *Compliance evaluation report.* A report summarizing the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP, and actions taken shall be made and retained as part of the SWPPP for at least three years from the date of the inspection. Major observations should include: the location(s) of discharges of pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the

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SWPPP and this permit. The report shall be signed in accordance with Part III K;

4. Where compliance evaluation schedules overlap with routine inspections the annual compliance evaluation may be used as one of the routine inspections.

## F. Signature and plan review.

1. *Signature/location.* The plan shall be signed in accordance with Part III K and retained on-site at the facility covered by this permit.

2. *Availability.* The permittee shall make the SWPPP, annual site compliance inspection report, and other information available to the department upon request.

3. *Required modifications.* The director may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this permit. The notification shall identify those provisions of the permit that are not being met, as well as the required modifications. The permittee shall make the required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by the director, and shall submit a written certification to the director that the requested changes have been made.

## G. Maintaining an updated SWPPP. The permittee shall amend the SWPPP whenever:

1. There is a change in design, construction, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility;

2. During inspections, monitoring, or investigations by facility personnel or by local, state, or federal officials it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources or is otherwise not achieving the general objectives of controlling pollutants in discharges from the facility.

## H. Special pollution prevention plan requirements.

1. *Additional requirements for storm water discharges associated with industrial activity that discharge into or through municipal separate storm sewer systems.*

a. *In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under VPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the permittee has been notified of such conditions.*

b. *Permittees that discharge storm water associated with industrial activity through a municipal separate storm sewer system, or a municipal system designated by the director shall make plans available to the municipal operator of the system upon request.*

2. *Additional requirements for storm water discharges associated with industrial activity from facilities subject to EPCRA § 313 reporting requirements. Any potential*

*pollutant sources for which the facility has reporting requirements under EPCRA § 313 must be identified in the SWPPP.*

## Part III

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

#### B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

#### C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

2. A written report shall be submitted within 5 days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

## J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the federal Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the federal Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

## K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or

vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board, shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or

supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the federal Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the federal Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the federal Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights or any infringement of federal, state or local laws or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by § 510 of the federal Clean Water Act. Except as provided in permit conditions on "bypass" (Part III U), and "upset" (Part III V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which

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occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part III U 3 a.

## V. Upset.

1. An upset, defined in 9 VAC 25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the cause(s) of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part III I; and
- d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the federal Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

VA.R. Doc. No. R04-118; Filed July 6, 2005; 10:34 a.m.

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<p><b>REGISTRAR'S NOTICE:</b> The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F; and (iv) conducts at least one public hearing on the proposed general permit.</p>
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Title of Regulation: **9 VAC 25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities (amending 9 VAC 25-193-10, 9 VAC 25-193-20, 9 VAC 25-193-40 through 9 VAC 25-193-70).**

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

Public Hearing Date: August 30, 2005 - 10 a.m.

Public comments may be submitted until September 23, 2005.

(See Calendar of Events section for additional information)

Agency Contact: Burton Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032 or e-mail brtuxford@deq.virginia.gov.

## Summary:

*The proposed amendments will modify the existing general VPDES permit for ready-mixed concrete plants to add coverage for facilities in SIC Codes 3271 (Concrete Block and Brick) and 3272 (Concrete Products, Except Block and Brick); change the title of the regulation; and modify the permit Special Condition #4 to include a list of washdown and washout items that are specific to concrete products facilities (taken directly from EPA's 2000 Multi-Sector Storm Water General Permit.)*

## CHAPTER 193.

### GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR READY- MIXED CONCRETE PLANTS PRODUCTS FACILITIES.

#### **9 VAC 25-193-10. Definitions.**

The words and terms used in this chapter shall have the meanings defined in § 62.1-44.2 et seq. of the Code of Virginia (State Water Control Law) and 9 VAC 25-31 (VPDES Permit Regulation), unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Industrial activity" means facilities or those portions of a facility where the primary purpose is classified as:

1. Standard Industrial Classification (SIC) Code ~~3273-3271~~ - *Concrete Block and Brick* (Office of Management and Budget (OMB) SIC Manual, 1987);
2. *SIC Code 3272 - Concrete Products, Except Block and Brick; or*
3. *SIC Code 3273 - Ready-Mixed Concrete*, including both permanent and portable plants.

*These facilities are collectively defined as "Concrete Products Facilities".*

#### **9 VAC 25-193-20. Purpose.**

This general permit regulation governs the discharge of process waste water and storm water associated with industrial activity from ~~ready-mixed concrete plants-products facilities~~ classified as Standard Industrial Classification Code

*Codes 3271, 3272 and 3273, provided that the discharge is through a point source to surface waters.*

#### **9 VAC 25-193-40. Effective date of the permit.**

This general VPDES permit ~~will become~~ *became* effective on October 1, 2003, and it will expire on September 30, 2008. *The general permit was amended on [ Xxxxx xx, 2005 ], to add coverage for SIC Codes 3271 and 3272. The amendment became effective on [ Xxxxx xx, 200x ].* With respect to a particular facility, this general permit shall become effective upon the facility owner's compliance with the provisions of 9 VAC 25-193-50 and the receipt of a copy of the general VPDES permit.

#### **9 VAC 25-193-50. Authorization to discharge.**

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner has filed with the department the registration statement described in 9 VAC 25-193-60, has filed the required permit fee, has complied or will comply with the effluent limitations and other requirements of 9 VAC 25-193-70, and has complied with the following conditions:

1. The owner shall not have been required to obtain an individual permit as may be required in 9 VAC 25-31-170 B 3; and
2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

#### **9 VAC 25-193-60. Registration statement.**

A. Deadlines for submitting registration statement. The owner shall file a complete General VPDES Permit registration statement which shall serve as a notice of intent to be covered under the general VPDES permit for ~~ready-mixed concrete plants-products facilities~~. Any owner proposing a new discharge shall file a complete registration statement at least 30 days prior to the date planned for commencing operation of the ~~ready-mixed concrete plant-products facility~~. Any owner of an existing ~~ready-mixed concrete plant-products facility~~ covered by an individual VPDES permit who is proposing to be covered by this general permit shall file a complete registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing ~~ready-mixed concrete plant-products facility~~ not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file a complete registration statement.

B. The owner shall submit a registration statement that contains the following information:

1. Name and location of the facility;
2. Name, mailing address, and telephone number of the facility owner;

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3. Name, mailing address, and telephone number of the operator if different than owner;
4. Facility's Standard Industrial Classification (SIC) Code(s);
5. Nature of business at facility;
6. Indicate if the facility is proposed or existing; if the facility has a current VPDES and/or VPA Permit; and Permit Number(s) for any current VPDES and/or VPA Permits;
7. Description of the wastewater treatment or reuse/recycle system(s); indicate if there are any system(s) which operate in a "no discharge" mode;
8. If settling basins are used for treatment and control of process wastewater and commingled storm water, indicate the original date of construction, and whether these basins are lined with concrete or any other impermeable materials;
9. Indicate if there are vehicle/equipment maintenance activities on site. If yes, indicate if there is any process wastewater generated from these activities;
10. Indicate if this facility discharges noncontact cooling water from a geothermal unit or other system. If yes, description of the source of noncontact cooling water;
11. Indicate if any chemical additives are used in the geothermal or other system which discharges noncontact cooling water. If yes, list of chemical additive employed and its purpose; proposed schedule and quantity of chemical usage, and estimated concentration in the discharge; description of any wastewater treatment or retention during the use of the additives, if applicable; and a Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use;
12. Description of any measures employed to reclaim, reuse or disposal of the waste concrete materials;
13. A schematic drawing which shows the source(s) of water used on the property, the industrial operations contributing to or using water, and the conceptual design of the methods of treatment and disposal of wastewater and solids;
14. A topographic map, extending to at least one mile beyond property boundary, which shows the outline of the facility, the location of each of its existing and proposed intake and discharge points, and the locations of any wells, springs, and other surface water bodies;
15. Discharge outfall information, including outfall number(s), processes involved, estimated flow (gallons per day), receiving water bodies, and duration and frequency of each discharge (hours per day and days per week);
16. For a proposed facility that discharges storm water, indicate if a Storm Water Pollution Prevention Plan has been prepared.
17. The following certification: "I hereby grant to duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property where the treatment works is located for the purpose of determining compliance with or the suitability

of coverage under the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with the requirements of 9 VAC 25-31-110.

## 9 VAC 25-193-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements contained therein and be subject to all requirements of 9 VAC 25-31.

General Permit No: VAG11  
Effective Date: October 1, 2003  
Expiration Date: September 30, 2008  
*Modification Date: [ Xxxx xx, 2005 ]*

**GENERAL PERMIT FOR ~~READY-MIXED~~ CONCRETE  
PLANTS PRODUCTS FACILITIES AUTHORIZATION TO  
DISCHARGE UNDER THE VIRGINIA POLLUTANT  
DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA  
STATE WATER CONTROL LAW**

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of ~~ready-mixed~~ concrete ~~plants products facilities~~ are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I-Effluent Limitations, Monitoring Requirements, and Special Conditions, Part II-Storm Water Management, and Part III-Conditions Applicable to All VPDES Permits, as set forth herein.

### Part I. Effluent Limitations and Monitoring Requirements.

#### A. Effluent limitations and monitoring requirements.

##### 1. Process wastewater.

During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater which may contain input from vehicle/equipment maintenance activities, and may be commingled with noncontact cooling water or storm water associated with industrial activity. Samples taken in compliance with the monitoring requirements specified below shall be taken at outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NL	(6)	Estimate
Total Suspended Solids (mg/l)	30	60	NL	(6)	Grab
pH (standard units)	NA	9.0 <sup>(1)</sup>	6.0 <sup>(1)</sup>	(6)	Grab
Total Petroleum Hydrocarbons <sup>(2)</sup> (mg/l)	NA	15	NL	1/3 Months	Grab
Total Residual Chlorine <sup>(3)</sup> (mg/l)	0.016	0.016	NL	(6)	Grab
Ammonia-N <sup>(3)</sup> (mg/l)	NA	NL <sup>(5)</sup>	NL	(6)	Grab
Temperature <sup>(4)</sup> (°C)	NA		NL	(6)	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

<sup>(1)</sup> Where the Water Quality Standards (9 VAC 25-260) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

<sup>(2)</sup> Total Petroleum Hydrocarbons limitation and monitoring are only required where a discharge contains process wastewater generated from the vehicle/equipment maintenance activities. Total Petroleum Hydrocarbons shall be analyzed using the Wisconsin Department of Natural Resources Modified

Diesel Range Organics Method as specified in Wisconsin publication SW-141 (1995), or by EPA SW-846 Method 8015B (1996) for diesel range organics, or by EPA SW-846 Method 8270C (1996). If Method 8270C is used, the lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons.

<sup>(3)</sup> Chlorine limitation and monitoring are only required where the discharge contains cooling water that is chlorinated. Ammonia monitoring is only required where the discharge contains cooling water that is ~~sideinfected~~ *disinfected* using chloramines.

<sup>(4)</sup> Temperature limitation and monitoring are only required where a discharge contains cooling water.

<sup>(5)</sup> The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters.

For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall

not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters

where the hourly temperature change shall not exceed 0.5°C.

Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

<sup>(6)</sup> For a facility that was covered by the previous general permit, and reduced monitoring was granted and compliance demonstrated, monitoring frequency shall be 1/quarter. In all other cases, monitoring frequency shall be 1/month in the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations and the permittee receives authorization from the DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall revert to 1/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

Part I. Effluent Limitations and Monitoring Requirements.

A. Effluent limitations and monitoring requirements.

2. *Noncontact cooling water.*

During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge noncontact cooling water. Samples taken in compliance with the monitoring requirements specified below shall be taken at outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

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EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NA	(4)	Estimate
pH (standard units)	NA	9.0 <sup>(1)</sup>	6.0 <sup>(1)</sup>	(4)	Grab
Total Residual Chlorine <sup>(2)</sup> (mg/l)	0.016	0.016	NA	(4)	Grab
Ammonia-N <sup>(2)</sup> (mg/l)	NA	NL	NA	(4)	Grab
Temperature (°C)	NA	(3)	NA	(4)	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

(1) Where the Water Quality Standards (9 VAC 25-260) establish alternate standards for pH in the waters Ammonia monitoring is only required where cooling water is disinfected using chloramines.

(3) The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C. Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

(4) For a facility that was covered by the previous general permit, and reduced monitoring was granted and compliance demonstrated, monitoring frequency shall be 1/quarter. In all other cases, monitoring frequency shall be 1/month in the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations and the permittee receives authorization from

receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

(2) Chlorine limitation and monitoring are only required where the source of cooling water is chlorinated.

the DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall be reverted to 1/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

## Part I. Effluent Limitations and Monitoring Requirements—~~storm Event Monitoring.~~

### A. Effluent limitations and monitoring requirements—~~storm event monitoring.~~

#### 3. Storm water associated with industrial activity - storm event monitoring.

During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other process wastewaters or noncontact cooling water prior to discharge. Samples taken in compliance with the monitoring requirements specified below shall be taken at outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NA	1/Year	Estimate <sup>(1)</sup>
Total Petroleum Hydrocarbons <sup>(3)</sup> (mg/l)	NL	NA	1/Year	Grab <sup>(2)</sup>
Total Suspended Solids (mg/l)	NL	NA	1/Year	Grab <sup>(2)</sup>
<ip i1=0.1125in i2=0in>Total Recoverable Iron (mg/l)	NL	NA	1/Year	Grab <sup>(2)</sup>
pH (standard units)	NL	NA	1/Year	Grab <sup>(2)</sup>

NL = No limitation, monitoring required

NA = Not applicable

(1) Estimate of the total volume of the discharge during the storm event in accordance with the Operation and Maintenance Manual.

(2) The grab sample shall be taken during the first 30 minutes of the discharge. If during the first 30 minutes it was impracticable, then a grab sample shall be taken during the first hour of discharge, and the permittee shall submit with the Discharge Monitoring Report a description of why a grab sample during the first 30 minutes was impracticable.

(3) Total Petroleum Hydrocarbons shall be analyzed using the Wisconsin Department of Natural Resources Modified Diesel Range Organics Method as specified in Wisconsin publication SW-141 (1995), or by EPA SW-846 Method 8015B (1996) for diesel range organics, or by EPA SW-846 Method 8270C (1996). If Method 8270C is used, the

lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons.

4. All storm water samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Specific storm event data shall be reported with the Discharge Monitoring Report in accordance with Part II A.

5. Reports of annual monitoring shall be submitted to the DEQ regional office no later than the 10th day of January of each year.

6. A quarterly visual monitoring shall be performed and recorded in accordance with Part II D.

## B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, byproduct or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to surface waters.

3. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to minimize the potential or actual point source pollution of surface waters. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or ground waters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the maximum extent practicable and disposed of in a manner

so as not to allow their entry into the surface or ground waters of the state.

~~4. There shall be no product mixing unit washout or truck washing activities conducted outside of the~~ All washdown and washout of trucks, mixers, transport buckets, forms or other equipment shall be conducted within designated washdown and washout areas. All washout/washdown water shall be collected for recycle or treated prior to discharge.

5. Any waste concrete and dredged solids from the settling basins shall be managed within a designated area, and any wastewaters including storm water generated from these activities shall be collected for recycle or treated prior to discharge.

6. No domestic sewage discharges to surface waters are permitted under this general permit.

7. For geothermal or other system which discharges noncontact cooling water, the use of any chemical additives, except chlorine, without prior approval is prohibited under this general permit. Prior approval shall be obtained from the DEQ Regional Office before any changes are made to the chemical usage in the geothermal or other system. Requests for approval of chemical use shall be made in writing and shall include the following information:

- a. The chemical additive to be employed and its purpose;
- b. The proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;
- c. The wastewater treatment or retention (if any) to be provided during the use of the additive; and
- d. A Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

8. Within 180 days after the date of coverage under this general permit, the permittee shall develop an Operations and Maintenance (O&M) Manual for the permitted facility. The O&M Manual shall include procedures and practices for the mitigation of pollutant discharges and for the protection of state waters from the facility's operations. The manual shall address, at a minimum, operations and maintenance practices for the wastewater treatment process units and chemical and material storage areas, solids management and disposal procedures, temporary and long-term facility closure plans, testing requirements and procedures, recordkeeping and reporting requirements and the duties and roles of responsible officials.

The permittee shall implement the O&M Manual procedures and practices as soon as possible but no later than 12 months after the date of coverage under this general permit. The manual shall be kept on site at the permitted facility and shall be made available to the department upon request.

For a facility that was covered by the previous permit, an O&M Manual was required to be developed and implemented for that facility. Within 90 days after the date of coverage under this general permit, the existing O&M Manual shall be reviewed and modified, as appropriate, to

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conform to the requirements of this permit. The existing O&M Manual shall continue to be implemented until the manual, if required, is revised and implemented.

9. If the ~~ready-mixed concrete plant products facility~~ discharges through a municipal separate storm sewer system to surface waters, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system of the existence of the discharge and provide the following information: the name of the facility; a contact person and phone number; nature of the discharge; number of the outfalls; and the location of the discharge. A copy of such notification shall be provided to the department.

10. The permittee shall ensure that all basins and lagoons maintain a minimum freeboard of one foot at all times except during a 72-hour transition period after a measurable rainfall event. During the 72-hour transition period, no discharge from the basins and lagoons shall occur unless it is in accordance with this permit. Within 72 hours after a measurable rainfall event, the freeboard in all basins and lagoons shall return to the minimum freeboard of one foot. Should the one-foot freeboard not be maintained, the permittee shall immediately notify the DEQ Regional Office, describe the problem and corrective measures taken to correct the problem. Within five days of notification, the permittee shall submit a written statement to the regional office of explanation and corrective measures taken. In order to demonstrate compliance, the permittee shall conduct daily inspections while the facility is in operation and maintain an inspection log. The inspection log shall include at least the date and time of inspection, the weather data including the occurrence of a measurable rainfall event, the printed name and the handwritten signature of the inspector, the freeboard measurement in inches, a notation of observation made, and any corrective measures, if appropriate, taken. The log shall be kept onsite and be made available to the department upon request.

11. For treatment systems which operate only in a "no discharge" mode, there shall be no discharge of pollutants to surface waters from these systems except in the case of a storm event which is greater than a 25 year-24 hour storm event. The operation of these systems shall not contravene the Water Quality Standards (9 VAC 25-260), as adopted and amended by the board, or any provision of the State Water Control Law.

12. The permittee shall notify the department as soon as he knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/l);
- (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board in accordance with 9 VAC 25-31-220 F.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board in accordance with 9 VAC 25-31-220 F.

13. All settling basins used for treatment and control of process wastewater and commingled storm water that were constructed on or after February 2, 1998, shall be lined with concrete or any other impermeable materials prior to commencing operation.

14. Treated wastewater may be used on site for the purposes of dust suppression. Dust suppression shall be carried out as a best management practice but not a wastewater disposal method. No ponding or surface runoff shall occur as a result of such activity.

15. Compliance reporting under Part I A.

a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
Chlorine	0.1 mg/l
Ammonia-N	0.2 mg/l <del>ET</del>

b. Reporting.

(1) Monthly Average. Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in Part I A shall be determined as follows: All concentration data below the QL listed in subsection 15 a of this subsection shall be treated as zero. All concentration data equal to or above the QL listed shall be treated as it is reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, for the month. This arithmetic average shall be reported on the DMR as calculated. If all data are below the QL then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the calculated concentration is <QL then report "<QL" for the quantity, otherwise use the calculated concentration.

(2) Daily Maximum. Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I A shall be determined as follows: All concentration data below the QL listed in subdivision 15 a of this subsection shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average of

the values shall be calculated using all reported data, including the defined zeros, collected for each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the calculated concentration is <QL then report "<QL" for the quantity, otherwise use the calculated concentration.

(3) Any single datum required shall be reported as "<QL" if it less than QL listed in subdivision 15 a of this subsection. Otherwise the numerical value shall be reported.

## Part II. Storm Water Management.

A. Recording of results. For each discharge measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the Discharge Monitoring Reports (DMRs) the following information:

1. The date and duration (in hours) of the storm event(s) sampled;
2. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and
3. The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluent, the permittee may test the effluent of one of such outfalls and include with the DMRs an explanation that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each exclusively storm water outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40%), medium (40% to 65%) or high (above 65%)) shall be provided.

C. Sampling waiver. When a permittee is unable to collect storm water samples required in Part I A or other applicable sections of this permit within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sample in that period. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a

sample impracticable (drought, extended frozen conditions, etc.).

D. Quarterly visual examination of storm water quality. The permittee shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The visual examination(s) must be made during daylight hours (e.g., normal working hours), at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December.

1. Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. If no qualifying storm event resulted in discharge from the facility during a monitoring period, visual monitoring is exempted provided that the permittee document that no qualifying storm event occurred that resulted in storm water discharge during that quarter. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

2. Visual examination reports must be maintained onsite with the pollution prevention plan. The report shall include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

3. If the facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In

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addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (i.e., low (under 40%), medium (40 to 65%), or high (above 65%)) shall be provided in the plan.

4. When the permittee is unable to conduct the visual examination due to adverse climatic conditions, the permittee must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

## E. Allowable nonstorm water discharges.

1. The following nonstorm water discharges are authorized by this permit provided the nonstorm water component of the discharge is in compliance with Part II E 2 below.

- a. Discharges from fire fighting activities;
- b. Fire hydrant flushings;
- c. Potable water including water line flushings;
- d. Uncontaminated air conditioning or compressor condensate;
- e. Irrigation drainage;
- f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions;
- g. Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- h. Routine external building wash down which does not use detergents;
- i. Uncontaminated ground water or spring water;
- j. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
- k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but NOT intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

2. Except for flows from fire fighting activities, the Storm Water Pollution Prevention Plan must include:

- a. Identification of each allowable nonstorm water source;
- b. The location where it is likely to be discharged; and
- c. Descriptions of appropriate BMPs for each source.

3. If mist blown from cooling towers is included as one of the allowable nonstorm water discharges, the facility must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower. The

permittee must determine that the levels of such chemicals in the discharges will not cause or contribute to a violation of an applicable water quality standard after implementation of the BMPs selected to control such discharges.

F. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the storm water discharge(s) from this facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an onsite spill. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (1998), 40 CFR Part 117 (1998) or 40 CFR Part 302 (1998) occurs during a 24-hour period, the permittee is required to notify the department in accordance with the requirements of Part III G as soon as he has knowledge of the discharge. Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner of the MS4. In addition, the storm water pollution prevention plan required by this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (1998), 40 CFR Part 117 (1998) and 40 CFR Part 302 (1998) or § 62.1-44.34:19 of the Code of Virginia.

G. Storm water pollution prevention plans. A storm water pollution prevention plan is required to be developed for the facility. The plan shall be prepared in accordance with good engineering practices, and shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Permittees must implement the provisions of the storm water pollution prevention plan as a condition of this permit.

The storm water pollution prevention plan requirements of this permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of Part II G 4. If an erosion and sediment control plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan approving authority authorized under the Virginia Erosion and Sediment Control Regulation, 4 VAC 50-30. All plans incorporated by reference into the storm water pollution prevention plan become enforceable under this permit.

1. Deadlines for plan preparation and compliance.

- a. For a storm water discharge associated with industrial activity that is existing on or before the effective date of this permit, the storm water pollution prevention plan shall



be prepared and implemented as expeditiously as practicable, but not later than 270 days from the date of coverage under this permit. For a facility that was covered by the previous permit, a storm water pollution prevention plan was required to be developed and implemented for that facility. Within 120 days after the date of coverage under this permit, the existing storm water pollution prevention plan shall be reviewed and modified, as appropriate, to conform to the requirements of this permit. The existing storm water pollution prevention plans shall continue to be implemented until a new plan, if required, is developed and implemented.

b. The plan for any facility where industrial activity commences after the effective date of this permit, and except as provided elsewhere in this permit, shall be prepared, implemented and provide for compliance with the terms of the plan and this permit on or before the date of submission of a registration statement to be covered under this permit.

c. In cases where construction is necessary to implement measures required by the plan, the plan shall contain a schedule that provides compliance with the plan as expeditiously as practicable, but no later than three years from the date of coverage under this permit. Where a construction compliance schedule is included in the plan, the schedule shall include appropriate nonstructural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure.

## 2. Signature and plan review.

a. The plan shall be signed in accordance with Part III K, and be retained on-site at the facility covered by this permit in accordance with Part III B.

b. The permittee shall make the storm water pollution prevention plan, annual site compliance inspection report, or other information available to the department upon request.

c. The director, or his designee, may notify the permittee in writing at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 60 days of such notification from the director, or as otherwise provided by the director, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

3. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II G 4 b of this permit, or in otherwise achieving the general

objectives of controlling pollutants in storm water discharges associated with industrial activity.

4. Contents of plan. The plan shall include, at a minimum, the following items:

a. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

b. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(1) Drainage. A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II G 4 b (3) have occurred, and the locations of the following activities: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; bag house or other dust control device, recycle/sedimentation pond, clarifier or other device used for the treatment of process wastewater, and the areas that drain to the treatment device, locations used for the storage or disposal of wastes; liquid storage tanks; processing areas; and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls; and for each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(2) Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in

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a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(3) Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

(4) Sampling data. A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(5) Risk identification and summary of potential pollutant sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

c. Measures and controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(1) Good housekeeping. Good housekeeping requires the clean and orderly maintenance of areas that may contribute pollutants to storm waters discharges. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, and loading/unloading areas. The plan shall describe procedures performed to minimize the discharge of: spilled cement, aggregate (including sand and gravel), fly ash, settled dust, or other significant material in storm water from paved portions of the site that are exposed to storm water. Regular sweeping or other equivalent measures to minimize the presence of these materials shall be employed. The frequency of sweeping or equivalent measures shall be specified in

the plan based upon a consideration of the amount of industrial activity occurring in the areas and the frequency of precipitation, but it shall be a minimum of once a week if cement, aggregate, kiln dust, fly ash or settled dust are being handled/processed. Where practicable, efforts must be made to prevent the exposure of fine granular solids (cement, fly ash, etc.) to storm water by storing these materials in enclosed silos/hoppers, buildings or under other covering.

(2) Preventive maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and appropriate maintenance of such equipment and systems.

(3) Spill prevention and response procedures. Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(4) Routine facility inspections. Facility personnel who are familiar with the industrial activity, the BMPs and the storm water pollution prevention plan shall be identified to inspect designated equipment and areas of the facility. Inspections shall be conducted while the facility is in operation and include, but are not limited to, the following areas exposed to storm water: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, and truck wash down/equipment cleaning areas. The inspection frequency shall be specified in the plan based on a consideration of the level of industrial activity at the facility, but it shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained with the pollution prevention plan.

(5) Employee training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

(6) Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(7) Sediment and erosion control. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(8) Management of runoff. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices; or other equivalent measures.

d. Comprehensive site compliance evaluation. Qualified facility personnel who are familiar with the industrial activity, the BMPs and the storm water pollution prevention plan shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall include the following:

(1) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(2) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part II G 4 b and pollution prevention measures and controls identified in the plan

in accordance with Part II G 4 c shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(3) A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II G 4 d shall be made and retained as part of the storm water pollution prevention plan as required in Part III B. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III K.

(4) Where compliance evaluation schedules overlap with inspections required under Part II G 4 c (4), the compliance evaluation may be conducted in place of one such inspection.

#### 5. Special pollution prevention plan requirements:

a. Additional requirements for storm water discharges associated with industrial activity from facilities subject to § 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) reporting requirements. Potential pollutant sources for which the facility has reporting requirements under EPCRA 313 must be identified in the summary of potential pollutant sources as per Part II G 4 b.

b. Additional requirements for salt storage. Storage piles of salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation (except for exposure resulting from adding or removing materials from the pile). Piles do not need to be enclosed or covered where storm water from the pile is not discharged to surface waters or the discharges from the piles are authorized under another permit.

### Part III.

#### Conditions Applicable To All VPDES Permits.

##### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

##### B. Records.

1. Records of monitoring information shall include:

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- a. The date, exact place, and time of sampling or measurements;
- b. The individuals who performed the sampling or measurements;
- c. The dates and times analyses were performed;
- d. The individuals who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain (i) records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, (ii) copies of all reports required by this permit, and (iii) records of all data used to complete the registration statement for this permit for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

## C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes

of the State Water Control Law. The permittee shall also furnish to the department upon request copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and

the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there

is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statements. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal

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executive officer of a public agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part III K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these

standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U), and "upset" (Part III V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted

activity in order to maintain compliance with the conditions of this permit.

## U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

### 2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I.

### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part III U 3 a.

## V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or his designee, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for

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# Proposed Regulations

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transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

VA.R. Doc. No. R05-112; Filed July 6, 2005, 10:33 a.m.

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**REGISTRAR'S NOTICE:** The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** 9 VAC 25-810. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry (add 9 VAC 25-810-10 through 9 VAC 25-810-70).

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia.

**Public Hearing Date:** August 30, 2005 - 10 a.m.

Public comments may be submitted until September 23, 2005.

(See Calendar of Events section for additional information)

**Agency Contact:** George E. Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032 or e-mail gecosby@deq.virginia.gov.

**Summary:**

The proposed amendments establish appropriate and necessary permitting requirements for discharge of wastewater from coin-operated laundries. The proposed amendments set forth standard language for effluent limitations and monitoring requirements necessary to regulate this category of dischargers.

CHAPTER 810.  
GENERAL VIRGINIA POLLUTANT DISCHARGE  
ELIMINATION SYSTEM (VPDES) PERMIT FOR COIN-  
OPERATED LAUNDRY.

**9 VAC 25-810-10. Definitions.**

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and 9 VAC 25-31 (Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Coin-operated laundry" means any self-service facility where the washing of clothes is conducted as designated by SIC 7215. It does not mean facilities that engage in dry cleaning.

**9 VAC 25-810-20. Purpose.**

This general permit regulation governs the discharge of wastewater from coin-operated laundry to surface waters.

**9 VAC 25-810-30. Delegation of authority.**

The director, or an authorized representative, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

**9 VAC 25-810-40. Effective date of the permit.**

This general permit will become effective on [ \*\*\*\*\* ]. This general permit will expire five years after [ the effective date ]. This general permit is effective for any covered owner upon compliance with all the provisions of 9 VAC 25-810-50 and the receipt of this general permit.

**9 VAC 25-810-50. Authorization to discharge.**

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9 VAC 25-810-60, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-810-70, and provided that:

1. Individual permit. The owner has not been required to obtain an individual permit according to 9 VAC 25-31-170 B 3.
2. Prohibited discharge locations. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies that prohibit such discharges.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

**9 VAC 25-810-60. Registration statement.**

The owner shall file a complete VPDES general permit registration statement for a coin-operated laundry. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing coin-operated laundry covered by an individual VPDES permit who



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is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing coin-operated laundry not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

1. Facility name and address, owner name and mailing address and telephone number;
2. Facility location;
3. Facility operator name, address and telephone number if different than owner;
4. Does the facility discharge to surface waters? Name of receiving stream if yes;
5. Does the facility have a current VPDES Permit? Permit number if yes;
6. A USGS topographic map showing the facility location;
7. Provide a brief description of the type of coin-operated laundry;
8. Number of laundry machines and the flow rate (million gallons per day);
9. Facility line drawing;
10. Treatment information;
11. Information on use of chemicals at the facility;
12. The following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.*

The registration statement shall be signed in accordance with 9 VAC 25-31-110.

## 9 VAC 25-810-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of 9 VAC 25-31.

General Permit No.: VAG72

Effective Date:

Expiration Date:

### GENERAL PERMIT FOR COIN-OPERATED LAUNDRY AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of coin-operated laundries are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable to All VPDES Permits, as set forth herein.

#### PART I A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a coin-operated laundry taken at outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Mini- mum	Maxi- mum	Frequency***	Sample Type
Flow (mgd)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0*	9.0*	1/Quarter	Grab
TSS (mg/l)	NA	60	1/Quarter	Grab
BOD <sub>5</sub> (mg/l)	NA	60*	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0*	NA	1/Quarter	Grab
Temperature °C	NA	32**	1/6 Months	Immersion Stabilization
Total Residual Chlorine (ug/l)	NA	11*	1/Quarter	Grab
E. Coli	NA	235 n/ 100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

\* Where the Water Quality Standards (9 VAC 25-260 et seq.) establish alternate standards for pH, BOD<sub>5</sub>, DO, TRC and temperature in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

\*\* The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and

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*piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C*

*\*\*\* Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the tenth day of April, July, October, and January. Reports of once per six months shall be submitted no later than the tenth day of January and the tenth day of July for samples collected by December 31 and June 30 of each year.*

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

## B. Special conditions.

1. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter;
- (2) Two hundred micrograms per liter for acrolein and acrylonitrile; 500 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter;
- (2) One milligram per liter for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

2. Operation and maintenance manual requirement. The permittee shall develop an Operations and Maintenance (O & M) Manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. The manual shall be submitted for staff approval within 90 days of [ the effective date of this permit OR completion of construction ]. The permittee shall operate the treatment works in accordance with the approved O & M Manual. This

manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- b. Discussion of best management practices, if applicable;
- c. Treatment system design, treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory and recordkeeping; and
- d. A sludge/solids disposal plan.

3. The permit prohibits adding chemicals to the water or waste that may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the Department of Environmental Quality.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts.

5. Compliance Reporting under Part I A (use for permit with water quality-based limits for toxics or conventional pollutants in Part I A. Modify this example as needed for effluent parameters in the permit).

a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
BOD <sub>5</sub>	5 mg/l
TSS	1.0 mg/l
Chlorine	0.1 mg/l

b. Reporting. Daily Maximum -- Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I A and B shall be determined as follows: All concentration data below the QL listed in subdivision a shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

c. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision a. Otherwise the numerical value shall be reported.

d. Monitoring results shall be reported using the same number of significant digits as listed in the permit.

6. If the discharge is into a municipal separate storm sewer the permittee is required to notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide the following information: the name of

the facility; a contact person and phone number; and the location of the discharge.

7. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.

## PART II

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the US Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

#### B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

#### C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the tenth day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the US Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

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2. *The cause of the discharge;*
3. *The date on which the discharge occurred;*
4. *The length of time that the discharge continued;*
5. *The volume of the discharge;*
6. *If the discharge is continuing, how long it is expected to continue;*
7. *If the discharge is continuing, what the expected total volume of the discharge will be; and*
8. *Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.*

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

*H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:*

1. *Unusual spillage of materials resulting directly or indirectly from processing operations;*
2. *Breakdown of processing or accessory equipment;*
3. *Failure or taking out of service some or all of the treatment works; and*
4. *Flooding or other acts of nature.*

*I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.*

1. *An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:*

- a. *Any unanticipated bypass; and*
- b. *Any upset which causes a discharge to surface waters.*

2. *A written report shall be submitted within five days and shall contain:*

- a. *A description of the noncompliance and its cause;*
- b. *The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and*

c. *Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.*

*The board may waive the written report on a case-by-case basis for reports of noncompliance under this subsection if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.*

3. *The permittee shall report all instances of noncompliance not reported under subdivisions 1 or 2 of this subsection, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in subdivision 2 of this subsection.*

*NOTE: The immediate (within 24-hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.*

*J. Notice of planned changes.*

1. *The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:*

a. *The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:*

(1) *After promulgation of standards of performance under § 306 of Clean Water Act that are applicable to such source; or*

(2) *After proposal of standards of performance in accordance with § 306 of Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;*

b. *The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or*

c. *The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.*

2. *The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.*

*K. Signatory requirements.*

1. *Registration statement. All registration statements shall be signed as follows:*

a. *For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;*

b. *For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or*

c. *For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.*

2. *Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:*

a. *The authorization is made in writing by a person described in subdivision 1 of this subsection;*

b. *The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and*

c. *The written authorization is submitted to the department.*

3. *Changes to authorization. If an authorization under Part II K 1 or 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or*

*together with any reports, or information to be signed by an authorized representative.*

4. *Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:*

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

L. *Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.*

*The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.*

M. *Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.*

N. *Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.*

O. *State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.*

P. *Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal*

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action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

*Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.*

*R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.*

*S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.*

*T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.*

## *U. Bypass.*

*1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.*

### *2. Notice.*

*a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.*

*b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.*

### *3. Prohibition of bypass.*

*a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:*

*(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;*

*(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition*

*is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and*

*(3) The permittee submitted notices as required under Part II U 2.*

*b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part II U 3 a.*

## *V. Upset.*

*1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.*

*2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:*

*a. An upset occurred and that the permittee can identify the cause(s) of the upset;*

*b. The permitted facility was at the time being properly operated;*

*c. The permittee submitted notice of the upset as required in Part II I; and*

*d. The permittee complied with any remedial measures required under Part II S.*

*3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.*

*W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:*

*1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;*

*2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;*

*3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and*

*4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.*

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

VA.R. Doc. No. R05-111; Filed July 6, 2005, 10:33 a.m.

**TITLE 12. HEALTH**

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

**Title of Regulation: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-40).**

**Statutory Authority:** §§ 32.1-324 and 32.1-325 of the Code of Virginia.

**Public Hearing Date:** N/A -- Public comments may be submitted until September 23, 2005.

(See Calendar of Events section for additional information)

**Agency Contact:** Katina Goodwyn, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-1680 or e-mail katina.goodwyn@dmas.virginia.gov.

**Basis:** Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the Director of the DMAS to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority as established by § 1902 (a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

**Purpose:** This change will not have any direct affect on the health, safety, or welfare of the citizens of the Commonwealth or on Medicaid recipients.

The purpose of this action is to implement the Virginia Maximum Allowable Cost (VMAC) to modify the reimbursement methodology used for generic, multiple source drug products. The VMAC will replace the existing generic drug methodology and will be more responsive to and more accurately reflect prices of multisource drugs in today's marketplace. Also, this action establishes the criteria for the department to develop VMAC pricing methodology, publish prices, and maintain a procedure whereby pharmacists may dispute the DMAS price for generic drugs and have their disputes resolved quickly. As a result of this change, DMAS will post to its website a monthly listing of generic drugs, prices, information sources, with comparisons to reference standards.

**Substance:** Pharmaceuticals are an increasingly important part of medical care and health care costs, and the fastest growing component of health care spending, including the Medicaid program. Medicaid programs face the challenge of managing pharmacy expenditures in a difficult economic environment while maintaining beneficiary access to appropriate care. Pharmacy costs in Virginia are one of the top Medicaid cost drivers. For recipients receiving fee-for-service medical services, DMAS spent approximately \$115 million (27%) of the total \$425 million (total funds) in expenditures in pharmacy costs on generic drugs in fiscal year 2003.

Prescription drug coverage is an optional benefit that all state Medicaid programs currently provide. This benefit provides access to a broad range of prescription drugs to a population that otherwise may be unable to get necessary but expensive drug therapy, including those recipients with severe mental illnesses or HIV/AIDS.

In Virginia, the Medicaid and FAMIS prescription drug benefit is provided through fee-for-service and managed care organization delivery systems. Currently, the 263,000 Medicaid clients and 5,000 FAMIS clients who obtain services through fee-for-service delivery systems are those who live in areas of the Commonwealth that currently do not have a managed care organization available or who are excluded from the managed care programs (such as persons in nursing

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facilities, community-based care waiver programs, and foster care children). Approximately 340,000 Medicaid and FAMIS clients receive pharmacy benefits through one of seven managed care organizations and are not affected by this regulatory action.

For dates prior to December 1, 2004, the Virginia Medicaid program reimburses pharmacies based on the lowest of the following pricing methodologies:

- Federal Upper Limit (FUL)
- 75th percentile cost level (VMAC)
- 60th percentile cost level for unit-dose drugs (VMAC)
- Average Wholesale Price minus 10.25%
- Pharmacy's usual and customary charge to the general public

Virginia Medicaid payments for fee-for-service pharmacy costs have increased by 111% since 1997, from \$201 million to \$425 million in fiscal year 2003 after drug rebates, in spite of major shifts of recipients to Medicaid managed care plans (1996 through December 2001). Over this same period, fee-for-service pharmacy costs, as a percentage of total medical costs, increased from 8.9% to 11.9%. Some of the factors of this cost escalation have been the cost per unit of pharmaceutical products as well as an increase in overall utilization. Similar trends have been seen in states across the country.

Within federal guidelines, Virginia has several tools at its disposal to control prescription drug utilization and spending. Prior to 2002, Virginia implemented the following cost containment strategies in its fee-for-service pharmacy program that are still in effect:

- Generic substitution for brand-name drugs. DMAS implemented a reminder message to the dispensing pharmacist at point-of-sale for its mandatory generic program;
- Drug utilization review, both through online messages to pharmacies and retrospective reviews;
- Federally mandated drug rebates from manufacturers; and
- Pharmacy lock-in for fraud and abuse cases.

Since 2002, cost control strategies that have been implemented in the fee-for-service program with savings included:

- Reduced Medicaid reimbursement for pharmacies from average wholesale price (AWP) minus 9.0% to AWP minus 10.25%
- Expedited access to generic drug products
- Revised pricing for anti-hemophilia drugs
- Established 34-day supply limit
- Increased recipient co-pay for brand-name drugs to \$2.00

- Improved third-party coverage cost avoidance at point-of-sale

Additional DMAS' cost savings strategies that have been implemented in 2003-2004 are as follows:

- Established and implemented a Preferred Drug List;
- Established prior authorization requirements for recipients who require more than nine unique prescriptions (to be effective 10/1/2004);
- Increased recipient co-pay for brand-name drugs from \$2.00 to \$3.00; and
- Implemented changes to the Prospective Drug Review (ProDUR) program for pharmacy claims.
- Mandatory use of generic drugs began effective 9/1/2004

The purpose of this regulatory action is to implement and administer a Maximum Allowable Cost (MAC) program for the department's fee-for-service population's (both Medicaid recipients and FAMIS participants) use of pharmacy services. VMAC is a methodology commonly used by Medicaid programs to control the costs of generic multiple source drugs by setting a maximum reimbursement amount. Drugs are considered "multiple source" or "multisource" when the drug is available as both brand name and generic or a brand-name product is priced as generic. In order to develop and manage its VMAC methodology, DMAS required the assistance of a contracted vendor. In order to secure the needed services and the best rate available to the Commonwealth, DMAS solicited proposals that met the following overall program objectives:

- Create a new VMAC program to implement cost savings for the department;
- Establish prices for generic multiple source drugs, which shall not be less than 110% of the lowest published wholesale acquisition cost for products widely available for purchase in the Commonwealth and included in the national pricing compendia;
- Monitor market conditions for fluctuations in pricing to ensure proper reimbursement to providers;
- Provide a timely process for communication, review, and resolution of providers' reimbursement discrepancies; and
- Provide a mechanism to evaluate program outcomes and compliance rate.

DMAS and its contractor consider reference products, Federal Upper Limit (FUL) values, Wholesale Acquisition Cost (WAC) and other factors to determine appropriate market pricing as it is typically influenced by many factors. The pricing values developed from this process become the foundation upon which VMAC pricing is based.

Issues: The primary advantage to the Commonwealth and to the agency is that this regulatory action will generate significant cost savings on generic drugs, which is a substantial expense in the Medicaid budget. While pharmacy providers stand to lose some profits due to this change, it brings the DMAS generic pricing methodology more in line



with the payment structure used by commercial insurance that is prevalent in the industry.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed regulations will permanently implement the Maximum Allowable Cost methodology used to price generic drugs provided to Medicaid recipients. The proposed changes have been in effect under emergency regulations since December 2004.

Estimated economic impact. The proposed regulations will permanently revise the Medicaid reimbursement methodology for generic drugs. Currently, pharmacies are reimbursed for the generic drugs the lowest of (i) the Federal Upper Limit (FUL), (ii) Virginia Maximum Allowable Cost (VMAC), (iii) Average Wholesale Price (AWP) minus 10.25 percent, and (iv) Pharmacy's usual and customary charge.

The VMAC reimbursement rates were developed and maintained by the Virginia Department of Health. However, the point of reference used in the VMAC methodology was not updated frequently. In a dynamic generic drug market, static prices established by the VMAC methodology often produced higher rates. Because Medicaid payment is the lowest of (i) through (iv), few drugs were paid based on the VMAC price. For example, in FY 2004, there were 4.5 million claims that had a VMAC price. Of those claims, only seven percent of were paid the VMAC price. The remaining 93% of the claims were paid using one of the other pricing methodologies.

Pursuant to Item 326 WW (1) of the 2004 Appropriation Act, the proposed changes will permanently revise the VMAC pricing methodology. The proposed Maximum Allowable Cost (MAC) is determined based on the Wholesale Acquisition Cost (WAC). This methodology has been in effect since December 2004 under emergency regulatory authority. The rate is the higher of i) the lowest WAC plus 10 percent, or ii) the second lowest WAC plus 6 percent. For example, if the lowest WAC for Ibuprofen 800 mg tablet is \$0.04312 and the second lowest WAC is \$0.05210, the lowest WAC plus 10 percent would be \$0.04743 and the second lowest WAC plus 6 percent would be \$0.05523. Because the second lowest WAC plus 6 percent is greater than the lowest WAC plus 10 percent, the Medicaid program pays the pharmacy \$0.05523 for this particular generic drug.

The proposed reimbursement methodology provides a 10 percent margin over the lowest WAC price. The intent of the

10 percent margin is to provide flexibility to pharmacies to purchase drugs from multiple wholesalers. For example, a pharmacy in Virginia may not have access to the wholesaler with the lowest price that may be located in another state. The ten percent margin enhances a pharmacy's ability to purchase drugs from multiple vendors.

The alternate MAC pricing, the second lowest WAC price plus 6 percent, is designed to address the cases where the lowest WAC is considerably lower than all other wholesale prices. For example, a wholesaler may be promoting a particular drug at a deep discount. In these cases, adding only 10 percent to the lowest WAC price may significantly hinder a pharmacy's ability to acquire the drug if the promoting wholesaler is not accessible. To prevent these cases, the proposed methodology checks to see if the second lowest WAC plus 6 percent is higher than the lowest WAC plus 10 percent, and pays the higher rate.

A generic drug must satisfy a number of criteria in order to have a MAC price established. One of the criteria is that drug must be included in national pricing compendia. In addition, there must be at least three different suppliers. This is intended to make sure that there is some competition in the market where the WAC prices are determined. The drugs must also be therapeutically and pharmaceutically equivalent as determined by the Food & Drug Administration.

The administration of the MAC pricing is handled by a contractor. Additionally, once the MAC prices are established, a list of rates and the factors used in pricing are made available to pharmacies via the Department of Medical Services' website and the list is updated monthly.

The proposed regulations also provide an option for dispute resolution. In some cases, it may be impossible for a pharmacy to obtain a particular generic drug at the published MAC price for variety of reasons such as geographic location. In these instances, a pharmacy may dispute the rate.

The main economic benefits of the proposed changes include significant fiscal savings for the Virginia's Medicaid program. One half of the fiscal savings will be realized by the Commonwealth and the other half will be realized by the federal government. According to the data available from December 2004 through April 2005, fiscal savings annualized for a year is estimated to be approximately \$26.5 million. This estimate represents approximately 23% savings out of the \$115 million spent on generic drugs in FY 2003. On the other hand, these savings reduce profits of pharmacies that provide generic drugs to Medicaid recipients. The extent of the revenue impact on each individual pharmacy depends on many factors including the acquisition cost of the drug and the amount of drugs sold to the Medicaid recipients. There is no data to analyze the potential impact on each individual pharmacy. However, at the aggregate, a reduction in profits should be expected to reduce incentives of pharmacies to participate in the Medicaid program.

Also, there are some administrative costs associated with the proposed changes. The start up costs already spent by DMAS for computer system changes are approximately \$83,000. Of this amount, approximately 90% is financed from the federal matching funds and the 10% from the state funds.

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# Proposed Regulations

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In addition, DMAS will pay \$277,000 biennially to a private contractor for the administration of the proposed MAC methodology including the costs associated with the dispute resolution process.

Businesses and entities affected. The proposed regulations affect approximately 1635 pharmacy providers.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. At the aggregate, the proposed generic drug pricing methodology will reduce the profits of Medicaid pharmacy providers. To the extent reduced profits affect their ability to hire employees, a negative impact on employment in the pharmaceutical industry may be expected. On the other hand, implementation of the MAC program should have a balancing positive impact on employment as additional man hours are required to administer this program.

Effects on the use and value of private property. The proposed regulations should not affect the value of real private property. However, a negative impact on the asset value of Medicaid pharmacy providers may result as their profitability is reduced. Conversely, the private contractor that will administer this program may realize a positive impact on its asset value.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Medical Assistance Services has reviewed the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the regulations concerning Methods and Standards for Establishing Payment Rates - Other Types of Care: Pharmacy services reimbursement: Virginia Maximum Allowable Cost (VMAC). The Agency raises no issues with this analysis.

## Summary:

*The proposed amendments modify the regulations setting out reimbursement methodology for multiple source generic drugs to implement the revised Virginia Maximum Allowable Cost (VMAC). The rate will be the higher of either: (i) the lowest Wholesale Acquisition Cost (WAC) plus 10%, or (ii) the second lowest WAC plus 6.0%. Criteria are established for the pricing methodology, posting of prices, maintaining a procedure for dispute of the DMAS prices, and expediting dispute resolution.*

## **12 VAC 30-80-40. Fee-for-service providers: pharmacy.**

Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the Centers for Medicare and Medicaid Services (CMS) upper limit of VMAC cost) subject to the conditions, where applicable, set forth in subdivisions 6 and 7 of this section:

1. The upper limit established by the CMS for multiple source drugs pursuant to 42 CFR 447.331 and 447.332, as determined by the CMS Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the

HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.

~~2. The Virginia Maximum Allowable Cost (VMAC) established by the Virginia Department of Medical Assistance Services to be inclusive of appropriate multiple source and specific high cost drugs plus a dispensing fee. The VMAC methodology shall be defined as the 75th percentile cost level, or the 60th percentile cost level for unit dose drugs, of the aggregate for each generic manufacturer's drug for each Generic Code Number (GCN). Manufacturers' costs are supplied by the most current First Data Bank file. Multiple source drugs may include but are not limited to Food and Drug Administration rated products such as drugs established by a Virginia Voluntary Formulary (VVF) drugs, Federal Upper Limit Drugs and any other state or federally approved listing. "Multisource drugs" means covered outpatient drugs for which there are two or more drug products that:~~

- ~~a. Are included in the Centers for Medicare and Medicaid Services' state drug rebate program;~~
- ~~b. Have been approved by the Federal Food and Drug Administration (FDA);~~
- ~~c. Are included in the Approved Products with Therapeutic Equivalence Evaluations as generically equivalent; and~~
- ~~d. Are sold or marketed in Virginia.~~

*2. The methodology used to reimburse for generic drug products shall be the higher of either (i) the lowest Wholesale Acquisition Cost (WAC) plus 10% or (ii) the second lowest WAC plus 6.0%. This methodology shall reimburse for products' costs based on a Maximum Allowable Cost (VMAC) list to be established by the single state agency.*

*a. In developing the maximum allowable reimbursement rate for generic pharmaceuticals, the department or its designated contractor shall:*

- (1) Identify three different suppliers, including either manufacturers or wholesalers, that are able to supply pharmaceutical products in sufficient quantities. The drugs considered must be listed as therapeutically and pharmaceutically equivalent in the Food and Drug Administration's most recent version of the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book). Pharmaceutical products that are not available from three different suppliers, including either manufacturers or wholesalers, shall not be subject to the VMAC list.*
- (2) Identify that the use of a VMAC rate is lower than the Federal Upper Limit (FUL) for the drug. The FUL is a known, widely published price provided by CMS; and*
- (3) Distribute the list of state VMAC rates to pharmacy providers in a timely manner prior to the implementation of VMAC rates and subsequent modifications. DMAS shall publish on its website, each month, the information used to set the*

Commonwealth's prospective VMAC rates, including, but not necessarily limited to:

(a) The identity of applicable reference products used to set the VMAC rates;

(b) The Generic Code Number (GCN) or National Drug Code (NDC), as may be appropriate, of reference products;

(c) The difference by which the VMAC rate exceeds the appropriate WAC price; and

(d) The identity and date of the published compendia used to determine reference products and set the VMAC rate. The difference by which the VMAC rate exceeds the appropriate WAC price shall be at least or equal to 10% above the lowest-published wholesale acquisition cost for products widely available for purchase in the Commonwealth and shall be included in national pricing compendia.

b. Development of a VMAC rate that does not have a FULL rate shall not result in the use of higher-cost innovator brand name or single source drugs in the Medicaid program.

c. DMAS or its designated contractor shall:

(1) Implement and maintain a procedure to add or eliminate products from the list, or modify VMAC rates, consistent with changes in the fluctuating marketplace. DMAS or its designated contractor will regularly review manufacturers' pricing and monitor drug availability in the marketplace to determine the inclusion or exclusion of drugs on the VMAC list; and

(2) Provide a pricing dispute resolution procedure to allow a dispensing provider to contest a listed VMAC rate. DMAS or its designated contractor shall confirm receipt of pricing disputes within 24 hours, via telephone or facsimile, with the appropriate documentation of relevant information, e.g., invoices. Disputes shall be resolved within three business days of confirmation. The pricing dispute resolution process will include DMAS' or the contractor's verification of accurate pricing to ensure consistency with marketplace pricing and drug availability. Providers will be reimbursed, as appropriate, based on findings. Providers shall be required to use this dispute resolution process prior to exercising any applicable appeal rights.

3. The provider's usual and customary charge to the public, as identified by the claim charge.

4. The Estimated Acquisition Cost (EAC), which shall be based on the published Average Wholesale Price (AWP) minus a percentage discount established by the General Assembly (as set forth in subdivision 8 of this section) or, in the absence thereof, by the following methodology set out in subdivisions a through c below.

a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.

b. The survey shall reflect statistical analysis of actual provider purchase invoices.

c. The agency will conduct surveys at intervals deemed necessary by DMAS.

5. Payment for pharmacy services will be as described above however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements. The dispensing fee of \$3.75 (effective July 1, 2003) for brand name drugs shall remain in effect. The dispensing fee for generic drugs is \$4.00.

6. The Program pays additional reimbursement for unit dose dispensing systems of dispensing drugs. DMAS defines its unit dose dispensing system coverage consistent with that of the Board of Pharmacy of the Department of Health Professions (18 VAC 110-20-420). This service is paid only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose per capita fee to be calculated by DMAS' fiscal agent based on monthly per nursing home resident service per pharmacy provider. Only one service fee per month may be paid to the pharmacy for each patient receiving unit dose dispensing services. ~~The maximum allowed drug cost for specific multiple source drugs will be the lesser of subdivisions 1 through 4 of this section as applicable~~ Multisource drugs will be reimbursed at the maximum allowed drug cost for specific multiple source drugs as identified by the state agency or CMS' upper limits as applicable. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency. The original per capita fee shall be determined by a DMAS analysis of costs related to such dispensing, and shall be reevaluated at periodic intervals for appropriate adjustment. The unit dose dispensing fee is \$5.00 per recipient per month per pharmacy provider.

7. Determination of EAC was the result of a report by the Office of the Inspector General that focused on appropriate Medicaid marketplace pricing of pharmaceuticals based on the documented costs to the pharmacy. An EAC of AWP minus 10.25% shall become effective July 1, 2002.

The dispensing fee for generic drugs of \$4.00 and the dispensing fee for brand name drugs of \$3.75 (effective July 1, 2003) shall remain in effect, creating a payment methodology based on the previous algorithm (least of 1 through 5 of this subsection above) plus a dispensing fee where applicable.

8. Home infusion therapy.

a. The following therapy categories shall have a pharmacy service day rate payment allowable: hydration therapy, chemotherapy, pain management therapy, drug therapy, total parenteral nutrition (TPN). The service day rate payment for the pharmacy component shall apply to the basic components and services intrinsic to the therapy category. Submission of claims for the per diem rate shall be accomplished by use of the CMS 1500 claim form.

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## Proposed Regulations

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b. The cost of the active ingredient or ingredients for chemotherapy, pain management and drug therapies shall be submitted as a separate claim through the pharmacy program, using standard pharmacy format. Payment for this component shall be consistent with the current reimbursement for pharmacy services. Multiple applications of the same therapy shall be reimbursed one service day rate for the pharmacy services. Multiple applications of different therapies shall be reimbursed at 100% of standard pharmacy reimbursement for each active ingredient.

9. Supplemental rebate agreement. Based on the requirements in § 1927 of the Social Security Act, the Commonwealth of Virginia has the following policies for the supplemental drug rebate program for Medicaid recipients:

a. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for legend drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract A and Amendment #2 to Contract A has been authorized by CMS.

b. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract B and Amendment #2 to Contract B has been authorized by CMS.

c. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract C, and Amendments #1 and #2 to Contract C has been authorized by CMS.

d. Supplemental drug rebates received by the state in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national drug rebate agreement.

e. Prior authorization requirements found in § 1927(d)(5) of the Social Security Act have been met.

f. Nonpreferred drugs are those that were reviewed by the Pharmacy and Therapeutics Committee and not included on the preferred drug list. Nonpreferred drugs will be made available to Medicaid beneficiaries through prior authorization.

g. Payment of supplemental rebates may result in a product's inclusion on the PDL.

### DOCUMENTS INCORPORATED BY REFERENCE

*Approved Drug Products with Therapeutic Equivalence Evaluations, 25th Edition, 2005, U.S. Department of Health and Human Services.*

VA.R. Doc. No. R05-57; Filed July 5, 2005, 10:20 a.m.

# FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### BOARD OF GAME AND INLAND FISHERIES

**REGISTRAR'S NOTICE:** The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 2.2-4002 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulation: **4 VAC 15-40. Game: In General (amending 4 VAC 15-40-20; adding 4 VAC 15-40-21).**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: August 24, 2005.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, or e-mail regcomments@dgif.state.va.us.

#### Summary:

*The amendments (i) legalize the use of a crossbow by any person in all hunting seasons in which archery equipment may be used; (ii) establish a special crossbow license for persons using a crossbow during the special archery hunting seasons, to be required in addition to the basic hunting license; and (iii) establish the fees for such special crossbow license at \$12 for a resident of Virginia and \$25 for a nonresident plus a \$.50 issuance fee.*

**4 VAC 15-40-20. Hunting with ~~crossbows~~, arrows to which any drug, chemical or toxic substance has been added or explosive-head arrows prohibited.**

A. Except as otherwise provided by law or regulation, it shall be unlawful to use ~~a crossbow~~, arrows to which any drug, chemical or toxic substance has been added or arrows with explosive heads at any that time for the purpose of hunting wild birds or wild animals. ~~A crossbow is defined as any bow that can be mechanically held in the drawn or cocked position.~~

~~B. Crossbows permitted for persons with permanent physical disabilities. For the purposes of this section, any person possessing a medical doctor's written statement based on a physical examination declaring that such person has a permanent physical disability that prohibits the person from holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body, or from drawing or~~

~~pulling or releasing the bow string of a conventional bow, which thus prevents that person from hunting with conventional archery equipment, may hunt with a crossbow during hunting seasons under the same rules, regulations, laws, and conditions that apply to hunters using standard archery equipment. The doctor's written statement must be on a standardized form provided by the department. The doctor's written statement must be carried by the person while hunting and the statement shall be presented upon demand to any officer whose duty it is to enforce the game and inland fish laws.~~

**4 VAC 15-40-21. Special crossbow license; hunting with crossbows.**

*There shall be a license to hunt with a crossbow during the special archery seasons that shall be in addition to the license required to hunt small game. The fee for the special crossbow license shall be \$12 for a resident and \$25 for a nonresident plus a \$.50 issuance fee. The special crossbow license may be obtained from the clerk or agent of any county or city whose duty it is to sell licenses.*

VA.R. Doc. No. R05-170; Filed July 6, 2005, 11:08 a.m.

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**REGISTRAR'S NOTICE:** The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that proposal and adoption of regulations implementing Chapter 7 of Title 29.1 shall take place as described in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final regulations.

Title of Regulation: **4 VAC 15-380. Watercraft: Motorboat Numbering (readopting 4 VAC 15-380-120).**

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, 29.1-701.1, and 29.1-735 of the Code of Virginia.

Effective Date: August 24, 2005.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, or e-mail regcomments@dgif.state.va.us.

#### Summary:

*The action changes the statutory authority for the establishing of watercraft registration fees, adding § 29.1-701.1 of the Code of Virginia to that authority, and removing Item 392 of the 2002 Appropriation Act from it, but does not change the language of the regulation section establishing the fees.*

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# Final Regulations

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## 4 VAC 15-380-120. Certificate of registration fees.

The following fees shall be paid by applicants for certificates of registration:

For a motorboat under 16 feet	\$27
For a motorboat 16 feet to less than 20 feet	\$31
For a motorboat 20 feet to less than 40 feet	\$37
For a motorboat 40 feet and over	\$45
For first 10 actively registered motorboats by the same owner	\$27
For more than 10 actively registered motorboats by the same owner	\$21
For a duplicate certificate of registration and/or decal	\$9

VA.R. Doc. No. R05-171; Filed July 6, 2005, 11:07 a.m.

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

Titles of Regulations: **9 VAC 25-40. Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed** (amending 9 VAC 25-40-10, 9 VAC 25-40-30, 9 VAC 25-40-40, and 9 VAC 25-40-50; adding [ 9 VAC 25-40-25, ] 9 VAC 25-40-70; and repealing 9 VAC 25-40-20).

**9 VAC 25-720. Water Quality Management Planning Regulation** (amending 9 VAC 25-720-10, 9 VAC 25-720-30 through 9 VAC 25-720-70, 9 VAC 25-720-110, and 9 VAC 25-720-120).

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 303 of the federal Clean Water Act.

Effective Date: Suspended (see suspension notice following the regulation).

Agency Contact: John Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116, or e-mail jmkennedy@deq.virginia.gov.

#### Summary:

*The amendments to the regulations were adopted on June 28, 2005, by the State Water Control Board and the effective date was suspended under § 2.2-4015 A 4 of the Virginia Administrative Process Act to allow time for a 30-day public review and comment period on the changes.*

*The amendments (i) revise the existing point source policy for nutrient enriched waters to establish technology-based, annual average total nitrogen and total phosphorus concentration requirements for certain dischargers located in Virginia's Chesapeake Bay watershed and (ii) revise the Water Quality Management Planning Regulation to establish total nitrogen and total phosphorus annual waste load allocations for certain dischargers within Virginia's portion of the Chesapeake Bay Watershed, and authorize a*

*trading and offsets program to assist in the achievement and maintenance of the waste load allocations.*

#### CHAPTER 40.

### POLICY REGULATION FOR NUTRIENT ENRICHED WATERS AND DISCHARGERS WITHIN THE CHESAPEAKE BAY WATERSHED.

#### 9 VAC 25-40-10. Purpose.

This ~~policy regulation~~ provides for the control of discharges of nutrients from point sources affecting state waters that ~~have been~~ are designated "nutrient enriched waters" in 9 VAC 25-260-350 or are located within the Chesapeake Bay watershed, which consists of the following Virginia river basins: Potomac River Basin (9 VAC 25-260-390 and 9 VAC 25-260-400), James River Basin (9 VAC 25-260-410, 9 VAC 25-260-415, 9 VAC 25-260-420, and 9 VAC 25-260-430), Rappahannock River Basin (9 VAC 25-260-440), Chesapeake Bay and small coastal basins (9 VAC 25-260-520, Sections 2 through 3g), and the York River Basin (9 VAC 25-260-530).

*The provisions of this regulation and the Water Quality Management Planning Regulation (9 VAC 25-720) constitute the nutrient reduction requirements for point source discharges in the Chesapeake Bay Watershed to protect the Chesapeake Bay and its tidal rivers.*

#### 9 VAC 25-40-20. Authority. (Repealed.)

The board has ~~adopted this policy under the authority of §§ 62.1-44.15(3), 62.1-44.15(10) and 62.1-44.15(14) of the Code of Virginia.~~

#### [ 9 VAC 25-40-25. Definitions.

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

*"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.*

*"Expansion" or "expands" means initiating construction of a facility after July 1, 2005, to increase treatment capacity, except that the term does not apply in those cases where a Certificate to Construct was issued on or before July 1, 2005.*

*"Point source dischargers" or "dischargers" do not include permitted discharges of noncontact cooling water or storm water. ]*

#### 9 VAC 25-40-30. Strategy for "nutrient enriched waters-" outside of Chesapeake Bay Watershed.

~~As specified here, the board shall reopen the NPDES permits of certain point source dischargers to "nutrient enriched waters" and shall impose effluent limitations on nutrients in the discharges authorized by those permits and certain new permits.~~

A. All dischargers authorized by NPDES VPDES permits issued on or before July 1, 1988, to discharge 4 1.0 MGD or more to "nutrient enriched waters" shall be required to meet a monthly average total phosphorus effluent limitation of 2 mg/4 as quickly as possible and in any event within three years following modification of the NPDES permit 2.0 mg/l.

At the time of modification of the NPDES permit, any discharger who voluntarily accepts a permit to require installation and operation of nitrogen removal facilities to meet a monthly average total nitrogen effluent limitation of 10 mg/4 for the months of April through October shall be allowed an additional year to meet the phosphorus effluent limitation in 9 VAC 25-40-30 A.

B. All New source dischargers as defined in 9 VAC 25-30-10 [ with a permit issued that commence discharging 9 VAC 25-24 9 VAC 25-31 with a permit issued ] after July 1, 1988, and a design flow greater than or equal to 0.05 are authorized by VPDES permits to discharge 0.050 MGD who propose to discharge or more to "nutrient enriched waters" shall be required to meet a monthly average total phosphorus effluent limitation of 2 mg/4 2.0 mg/l.

C. This policy regulation shall not be construed to relax any effluent limitation concerning a nutrient that is imposed under any other requirement of state or federal law. No time extensions outlined in 9 VAC 25-40-30 A for installation and operation of nitrogen removal facilities shall be granted to a discharger if such an effluent limitation or a time extension is already imposed under any other requirement of state or federal law or regulation.

D. Any discharger to "nutrient enriched waters" that is located within the Chesapeake Bay Watershed is not subject to the requirements of this section.

#### 9 VAC 25-40-40. Permit amendments.

Whenever the board determines that a permittee has the potential for discharging monthly average total phosphorus concentrations greater than or equal to 2 mg/4 2.0 mg/l or monthly average total nitrogen concentrations greater than or equal to 40 mg/4 [  $1.0 \times 10^7$  10 ] mg/l to "nutrient enriched waters," the board may reopen the NPDES VPDES permit to impose monitoring requirements for nutrients in the discharge.

#### 9 VAC 25-40-50. Possibility of further limitations.

The board anticipates that, following implementation of the foregoing requirements and evaluation of effects of this policy regulation and of the results of the nonpoint source control programs, further limitations on discharges of phosphorus or of other nutrients may be necessary to control undesirable growths of aquatic plants.

#### 9 VAC 25-40-70. Strategy for Chesapeake Bay Watershed.

A. [ In recognition that nutrient reductions from point source discharges have a significant role in the restoration of the Chesapeake Bay and its tidal rivers since they provide a more immediate benefit to water quality and are more reliable than reductions from nonpoint sources, ] it shall be the policy of the board that point source dischargers within the Chesapeake Bay Watershed [ utilize biological nutrient removal technology or its equivalent whenever feasible, as provided by subsection

~~B of this section. For the purposes of this chapter and the related sections of 9 VAC 25-720, the terms "point source dischargers" or "dischargers" do not include permitted discharges of noncontact cooling water or storm water operate installed nutrient removal technologies at the treatment efficiency levels for which they were designed ].~~

B. As specified herein, the board shall [ ~~issue and reissue the VPDES permits of certain point source dischargers within the Chesapeake Bay Watershed and shall impose effluent concentration limitations on nutrients in the discharges authorized by these permits include technology-based effluent concentration limitations in the individual permit for any facility that has installed technology for the control of nitrogen and phosphorus whether by new construction, expansion, or upgrade. Such limitations shall be based upon the technology installed by the facility and shall be expressed as annual average concentrations ].~~

1. Except as provided under subdivision 4 of this subsection, [ ~~all significant dischargers, as defined in 9 VAC 25-720, authorized by VPDES permits issued on or before [the effective date of this chapter] shall achieve an annual average total nitrogen effluent limitation of not more than 8.0 mg/l and an annual average total phosphorus effluent limitation of not more than 1.0 mg/l; provided, however, these dischargers must achieve an annual total nitrogen waste load allocation and an annual total phosphorus waste load allocation as required by the Water Quality Management Planning Regulation (9 VAC 25-720). The applicable limitations shall be achieved within four years following reissuance or major modification of the VPDES permit, but in no case later than December 31, 2040 an owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued before July 1, 2005, that expands his facility to discharge 100,000 gallons or more per day, or an equivalent load directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters shall install state-of-the-art nutrient removal technology at the time of the expansion and achieve an annual average total nitrogen effluent concentration of 3.0 milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter ].~~

2. Except as provided under subdivision 4 of this subsection, [ ~~all dischargers that do not meet the definition of a significant discharger and are authorized by VPDES permits issued on or before July 1, 2004, to discharge 0.040 MGD or more shall be required to achieve an annual average total nitrogen effluent limitation of 8.0 mg/l and an annual average total phosphorus effluent limitation of 1.0 mg/l. These limitations shall be included in reissued or modified permits after December 31, 2010, and shall be achieved within four years following reissuance or major modification of the VPDES permits an owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued before July 1, 2005, that expands his facility to discharge 100,000 gallons or more per day up to and including 499,999 gallons per day, or an equivalent load, directly into nontidal waters shall install, at a minimum, biological nutrient removal technology at the time of the expansion and achieve an annual average~~

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total nitrogen effluent concentration of 8.0 milligrams per liter and an annual average total phosphorus effluent concentration of 1.0 milligrams per liter ].

3. Except as provided under subdivision 4 of this subsection, ~~[ all new dischargers or expanded discharges of nitrogen or phosphorus authorized by VPDES permits issued after [the effective date of this chapter] to discharge 0.040 MGD or more shall achieve an annual average total nitrogen effluent limitation of 3.0 mg/l and an annual average total phosphorus effluent limitation of 0.30 mg/l an owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued on or after July 1, 2005, to discharge 40,000 gallons or more per day, or an equivalent load, shall install:~~

a. At a minimum, biological nutrient removal technology at any facility authorized to discharge up to and including 99,999 gallons per day, or an equivalent load, directly into tidal and nontidal waters or up to and including 499,999 gallons per day, or an equivalent load, to nontidal waters and achieve an annual average total nitrogen effluent concentration of 8.0 milligrams per liter and an annual average total phosphorus effluent concentration of 1.0 milligrams per liter; and

b. State-of-the-art nutrient removal technology at any facility authorized to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters and achieve an annual average total nitrogen effluent concentration of 3.0 milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter].

4. On a case-by-case basis, ~~[ a discharger may demonstrate to the satisfaction of the board through treatability, engineering, or other studies that biological nutrient removal technology or its equivalent at a point source discharge cannot achieve the effluent limitations of subdivision 1, 2 or 3 of this subsection, as applicable. In these cases, the board shall require alternative effluent limitations the board deems appropriate for that discharger; the board may establish a technology-based standard and associated concentration limitation less stringent than the applicable standard specified in subdivision 1, 2 or 3 of this subsection, as applicable, based on a demonstration by an owner or operator that the specified standard is not technically or economically feasible for the affected facility or that the technology-based standard and associated concentration limitation would require the owner or operator to construct treatment facilities not otherwise necessary to comply with his waste load allocation without reliance on nutrient credit exchanges pursuant to § 62.1-44.19:18 of the Code of Virginia, ] provided, however, the discharger must achieve an annual total nitrogen waste load allocation and an annual total phosphorus waste load allocation as required by the Water Quality Management Planning Regulation (9 VAC 25-720).~~

5. Any effluent limitation concerning a nutrient that is imposed under any other requirement of state or federal law

or regulation that is more stringent than those established herein shall not be affected by this regulation.

[ C. In accordance with Article 1.1 (§ 10.1-1187.1 et seq.) of Chapter 11.1 of Title 10.1 of the Code of Virginia, the board may approve an alternate compliance method to the technology-based effluent concentration limitations as required by subsection B of this section. Such alternate compliance method shall be incorporated into the permit of an Exemplary Environmental Enterprise (E3) facility or an Extraordinary Environmental Enterprise (E4) facility to allow the suspension of applicable technology-based effluent concentration limitations during the period the E3 or E4 facility has a fully implemented environmental management system that includes operation of installed nutrient removal technologies at the treatment efficiency levels for which they were designed. ]

[ C. D. ] Notwithstanding subsections A and B of this section, point source dischargers within the Chesapeake Bay Watershed are also governed by the Water Quality Management Planning Regulation (9 VAC 25-720).

## 9 VAC 25-720-10. Definitions.

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

"Assimilative capacity" means the greatest amount of loading that a water can receive without violating water quality standards, significantly degrading waters of existing high quality, or interfering with the beneficial use of state waters.

"Best management practices (BMP)" means a schedule of activities, prohibition of practices, maintenance procedures and other management practices to prevent or reduce the pollution of state waters. BMPs include treatment requirements, operating and maintenance procedures, schedule of activities, prohibition of activities, and other management practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

"Best practicable control technology currently available (BPT)" means control measures required of point source discharges (other than POTWs) as determined by the EPA pursuant to § 304(b)(1) of the CWA (33 USC § 1251 et seq.) as of 1987.

"Board" means the State Water Control Board (SWCB).

"Chesapeake Bay Watershed" means the following Virginia river basins: Potomac River Basin (9 VAC 25-260-390 and 9 VAC 25-260-400), James River Basin (9 VAC 25-260-410, 9 VAC 25-260-415, 9 VAC 25-260-420, and 9 VAC 25-260-430), Rappahannock River Basin (9 VAC 25-260-440), Chesapeake Bay and small coastal basins (9 VAC 25-260-520, Sections 2 through 3g), and the York River Basin (9 VAC 25-260-530).

"Clean Water Act or Act (CWA)" means 33 USC § 1251 et seq. as amended, as of 1987.

~~[ "Delivered waste load" means the discharged load from a point source in a river basin that is adjusted by a delivery factor for any alteration of that load occurring from biological,~~



~~chemical, and physical processes during riverine transport to tidal waters. Delivery factors are calculated using the Chesapeake Bay Program watershed model.~~

"Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for every pound discharged from a permitted facility, as determined by the specific geographic location of the permitted facility, to account for attenuation that occurs during riverine transport between the permitted facility and tidal waters. Delivery factors shall be calculated using the Chesapeake Bay Program watershed model. ]

"Discharge" means when used without qualification, a discharge of a pollutant or any addition of any pollutant or combination of pollutants to state waters or waters of the contiguous zone or ocean or other floating craft when being used for transportation.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates or concentrations of pollutants that are discharged from [ ~~joint~~ point ] sources into state waters.

"Effluent limitation guidelines" means a regulation published by EPA under the Act and adopted by the board.

"Effluent limited segment (EL)" means a stream segment where the water quality does and probably will continue to meet state water quality standards after the application of technology-based effluent limitations required by §§ 301(b) and 306 of the CWA (33 USC § 1251 et seq.) as of 1987.

"Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

[ *"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.* ]

"Load or loading" means the introduction of an amount of matter or thermal energy into a receiving water. Loading may be either man-caused (pollutant loading) or natural (background loading).

"Load allocation (LA)" means the portion of a receiving water's loading capacity attributable either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading, which may range from accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting the loading. Wherever possible, natural and nonpoint source loads should be distinguished.

"Nonpoint source" means a source of pollution, such as a farm or forest land runoff, urban storm water runoff, mine runoff, or salt water intrusion that is not collected or discharged as a point source.

"Point source" means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch,

channel, tunnel, conduit, well, discrete fissure, container, rolling stock vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land.

"Pollutant" means any substance, radioactive material, or heat that causes or contributes to, or may cause or contribute to, pollution. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material that is injected into a well to facilitate production of oil, dry gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes if approved by the Department of Mines, Minerals and Energy unless the board determines that such injection or disposal will result in the degradation of ground or surface water resources.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that: (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner, which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution" for the terms and purposes of this water quality management plan.

"Publicly owned treatment works (POTW)" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

~~"Significant [ discharges discharger ]" means [ a point source discharger within the Chesapeake Bay Watershed that is listed in any of the following subsections: 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, or 9 VAC 25-720-120 C; or a new or expanded point source discharger authorized by a VPDES permit issued after July 1, 2004, to discharge 2,300 pounds per year or more of total nitrogen or 300 pounds per year or more of total phosphorus (i) a point source discharger to the Chesapeake Bay watershed with a design capacity of 0.5 million gallons per day or greater, or an equivalent load; (ii) a point source discharger to the Chesapeake Bay watershed east of the fall line with a design capacity of 0.1 million gallons per day or greater, or an equivalent load; (iii) a planned or newly expanding point source discharger to the Chesapeake Bay watershed that is expected to be in operation by 2010 with a permitted design of 0.5 million gallons per day or greater, or an equivalent load; or (iv) a planned or newly expanding point~~

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*source discharger to the Chesapeake Bay watershed east of the fall line with a design capacity of 0.1 million gallons per day or greater, or an equivalent load, that is expected to be in operation by 2010* ].

"State waters" means all waters, on the surface and under the ground and wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Surface water" means all waters in the Commonwealth except ground waters as defined in § 62.1-255 of the Code of Virginia.

"Total maximum daily load (TMDL)" means the sum of the individual waste load allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, natural background loading and usually a safety factor. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Toxic pollutant" means any agent or material including, but not limited to, those listed under § 307(a) of the CWA (33 USC § 1251 et seq. as of 1987), which after discharge will, on the basis of available information, cause toxicity.

"Toxicity" means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

*"Trading" means the transfer of assigned waste load allocations [ or credits ] for total nitrogen or total phosphorus among point source dischargers. It does not include the transfer of total nitrogen for total phosphorus, or the reverse.*

"Virginia Pollution Discharge Elimination System (VPDES) permit" means a document issued by the board, pursuant to ~~9 VAC 25-30~~ 9 VAC 25-31, authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"Waste load allocation (WLA)" means the portion of a receiving water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Water quality limited segment (WQL)" means any stream segment where the water quality does not or will not meet applicable water quality standards, even after the application of technology-based effluent limitations required by §§ 301(b) and 306 of the CWA (33 USC § 1251 et seq. as of 1987).

"Water quality management plan (WQMP)" means a state- or area-wide waste treatment management plan developed and updated in accordance with the provisions of §§ 205(j), 208 and 303 of the CWA (33 USC § 1251 et seq. as of 1987).

"Water quality standards (WQS)" means narrative statements that describe water quality requirements in general terms, and of numeric limits for specific physical, chemical, biological or radiological characteristics of water. These narrative statements and numeric limits describe water quality necessary to meet and maintain reasonable and beneficial uses such as swimming and, other water based recreation,

public water supply and the propagation and growth of aquatic life. The adoption of water quality standards under the State Water Control Law is one of the board's methods of accomplishing the law's purpose.

## **9 VAC 25-720-30. [~~Reserved.~~] Relationship to 9 VAC 25-40, Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed.**

*The provisions of this chapter and 9 VAC 25-40, Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed, constitute the nutrient reduction requirements for point source discharges in the Chesapeake Bay Watershed to protect the Chesapeake Bay and its tidal rivers.*

## **9 VAC 25-720-40. [~~Reserved.~~] [~~Trading and offsets Implementing Nitrogen and Phosphorus Waste Load Allocations~~] in the Chesapeake Bay Watershed.**

*A. Nitrogen and phosphorus waste load allocations assigned to individual significant dischargers in 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, and 9 VAC 25-720-120 C may be traded [~~among significant dischargers within the same river basin to assist in the achievement and maintenance of the total basin delivered waste load allocations in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program established under Article 4.02 (§ 62.1-44.19:12 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia. Trades must account for the delivery factor applicable to each discharge based upon its location within the river basin and calculated by the Chesapeake Bay Program watershed model~~].*

~~*B. Any proposed trade shall not result in degradation or adverse impacts to local water quality or violations of water quality standards.*~~

~~*C. Any trade of nitrogen or phosphorus waste load allocation among individual significant dischargers shall not result in the exceedence of the total basin delivered waste load allocation within which the significant dischargers are located.*~~

~~*D. The board may authorize trading only through VPDES permits. Trades conducted in accordance with this chapter through VPDES permits shall not require any amendments to this chapter.*~~

~~*E. Any discharge of nitrogen or phosphorus load from a new significant discharger or any increase in the discharge of nitrogen or phosphorus load from an expansion of an existing significant discharger that would exceed the waste load allocation for that significant discharger shall be accompanied by one of the following actions within the same river basin: (i) a trade for an equivalent or greater load reduction of the same pollutant from one or more existing dischargers; (ii) in accordance with the criteria listed below, the installation, monitoring and maintenance of best management practices that achieve an offsetting reduction of nonpoint source delivered load of nitrogen or phosphorus that the board determines is at least twice the reduction in delivered load compared to the new or increased delivered load from the significant discharger; or (iii) both actions in combination.*~~

The board may approve use of the second option (clause (ii)) in the previous paragraph in accordance with the following:

1. The VPDES permit for the new or expanded significant discharger includes an annual average total nitrogen effluent limitation of 3.0 mg/l or an annual average total phosphorus effluent limitation of 0.30 mg/l, as appropriate, or alternative limits as required by 9 VAC 245-40-70 B 4;
2. Best management practices are installed within the locality or localities served by the new or expanded discharger, unless the board determines that installation of the needed best management practices in another locality provides greater water quality benefits;
3. Credit may be given for improvements to best management practices beyond that already required under other federal or state law to the extent that additional reduction in delivered nitrogen or phosphorus load is provided;
4. Credit may not be given for portions of best management practices financed by government programs; and

5. The installation, monitoring and maintenance of the best management practices are required by the VPDES permit of the new or expanded significant discharger and the best management practices are installed subsequent to the issuance of the VPDES permit.

F. Any trade or offset involving a new significant discharger must account for the delivery factor that is assigned to the discharger based on its location within the river basin and must recognize that new significant dischargers have no assigned waste load allocations.

To ensure the total basin delivered loads of nitrogen and phosphorus are not exceeded, any trading or offsets conducted in accordance with this section shall use delivered loads. The following table contains the delivery factors for both nitrogen and phosphorus assigned to the identified Chesapeake Bay Program watershed model segments within each river basin. A delivered load equals the discharged load multiplied by the delivery factor.

River Basin	GBP Watershed Model Segment	Nitrogen Delivery Factor	Phosphorus Delivery Factor
Shenandoah-Potomac	170	0.55	0.75
Shenandoah-Potomac	180	0.82	0.75
Shenandoah-Potomac	190	0.42	0.74
Shenandoah-Potomac	200	0.65	0.74
Shenandoah-Potomac	220	0.83	0.75
Shenandoah-Potomac	550	0.58 or 1.00*	0.44 or 1.00*
Shenandoah-Potomac	740	0.74	0.75
Shenandoah-Potomac	900	1.00	1.00
Shenandoah-Potomac	910	1.00	1.00
Shenandoah-Potomac	970	1.00	1.00
Shenandoah-Potomac	980	1.00	1.00
Rappahannock	230	0.61	1.03
Rappahannock	560	1.00	1.00
Rappahannock	580	1.00	1.00
Rappahannock	930	1.00	1.00
York	235	0.27	0.43
York	240	0.42	0.43
York	250	0.02	0.58
York	260	0.51	0.58
York	590	1.00	1.00
York	940	1.00	1.00
James	265	0.02	1.10
James	270	0.30	1.10
James	280	0.61	1.10
James	290	0.81	1.00
James	300	0.37	0.42
James	310	0.54	0.39
James	600	1.00	1.00
James	610	1.00	1.00
James	620	1.00	1.00
James	630	1.00	1.00
James	950	1.00	1.00
James	955	1.00	1.00

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James	960	1.00	1.00
James	965	1.00	1.00
C. Bay Eastern Shore	430	1.00	1.00
C. Bay Eastern Shore	440	1.00	1.00

NOTE: \*Drainage to Occoquan Reservoir – delivery factors = 0.58 for nitrogen; 0.44 for phosphorus. Drainage outside Occoquan Reservoir – delivery factors = 1.00 for both nitrogen and phosphorus.

B. The nitrogen and phosphorus waste load allocations assigned to individual significant dischargers in 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, and 9 VAC 25-720-120 C are considered to be bioavailable to aquatic life. On a case-by-case basis, a discharger may demonstrate to the satisfaction of the board that a significant portion of the nutrients discharged by the facility is not bioavailable to aquatic life. In these cases, the board may limit the permitted discharge to reflect only that portion of the assigned waste load allocation that is bioavailable.

C. Unless otherwise noted, the nitrogen and phosphorus waste load allocations assigned to individual significant dischargers in 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, and 9 VAC 25-720-120 C are considered total loads including nutrients present in the intake water from the river, as applicable. On a case-by-case basis, an industrial discharger may demonstrate to the satisfaction of the board that a significant portion of the nutrient load originates in its intake water. In these cases, the board may limit the permitted discharge to reflect only the net nutrient load portion of the assigned waste load allocation.]

## 9 VAC 25-720-50. Potomac, Shenandoah River Basin.

**REGISTRAR'S NOTICE:** No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers [~~the associated delivery factors used for trading or offset purposes;~~] and the total nitrogen and total phosphorus [delivered] waste load [allocation allocations] for the basin. [~~These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~]

[ CBP Watershed Model Segment ]	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	[ TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr) ]	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	[ TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr) ]
[ 490 ]	B37R	Coors Brewing Company	VA0073245	[ <del>55,000</del> 54,820	0.42	<del>23,000</del>	4,100 4,112	0.74	<del>3,000</del>
[ 490 ]	B14R	Fishersville Regional STP	VA0025291	[ <del>24,000</del> 48,729	0.42	<del>10,000</del>	1,800 3,655	0.74	<del>1,400</del>
[ 490 ]	B32R	INVISTA - Waynesboro [ (Outfall 101) ]	VA0002160	[ <del>29,000</del> 78,941	0.42	<del>12,000</del>	1,300 1,009	0.74	<del>940</del>
[ 490 ]	B39R	Luray STP	VA0062642	[ <del>19,000</del> 19,492	0.42	<del>8,200</del>	1,500 1,462	0.74	<del>1,100</del>
[ 490 ]	B35R	Massanutten PSA STP	VA0024732	[ <del>18,000</del> 18,273	0.42	<del>7,700</del>	1,400 1,371	0.74	<del>1,000</del>
[ 490 ]	B37R	Merck - Stonewall WWTP	VA0002178	[ <del>96,000</del> 96,184	0.42	<del>40,000</del>	15,000 15,365	0.74	<del>11,000</del>
[ 490 ]	B12R	Middle River Regional STP	VA0064793	[ <del>83,000</del> 82,839	0.42	<del>35,000</del>	6,200 6,213	0.74	<del>4,600</del>
[ 490 ]	B23R	North River WWTF	VA0060640	[ <del>190,000</del> 194,916	0.42	<del>82,000</del>	15,000 14,619	0.74	<del>11,000</del>
[ 490 ]	B22R	[ <del>Pilgrims Pride</del> - VA Poultry Growers ] - Hinton	VA0002313	[ <del>27,000</del> 27,410	0.42	<del>12,000</del>	1,400 1,371	0.74	<del>1,000</del>
	[ B38R	Pilgrims Pride - Alma	VA0001961	18,273			914 ]		

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[ 190 ]	B31R	Stuarts Draft WWTP	VA0066877	[ 29,000 48,729	0.42	12,000	2,200 3,655	0.74	1,600 ]
[ 190 ]	B32R	Waynesboro STP	VA0025151	[ 49,000 48,729	0.42	20,000	3,600 3,655	0.74	2,700 ]
[ 190 ]	B23R	Weyers Cave STP	VA0022349	[ 6,100 6,091	0.42	2,600	460 457	0.74	340 ]
[ 200 ]	B58R	Berryville STP	VA0020532	[ 5,500 8,528	0.65	3,600	410 640	0.74	300 ]
[ 200 ]	B55R	Front Royal STP	VA0062812	[ 49,000 48,729	0.65	32,000	3,600 3,655	0.74	2,700 ]
[ 200 ]	B49R	Georges Chicken LLC	VA0077402	[ 31,000 31,065	0.65	20,000	1,600 1,553	0.74	1,100 ]
[ 200 ]	B48R	Mt. Jackson STP	VA0026441	[ 7,300 7,309	0.65	4,800	550 548	0.74	410 ]
[ 200 ]	B45R	New Market STP	VA0022853	[ 6,100 6,091	0.65	4,000	460 457	0.74	340 ]
[ 200 ]	B45R	North Fork (SIL) WWTF	VA0090263	[ 23,000 23,390	0.65	15,000	1,800 1,754	0.74	1,300 ]
[ 200 ]	B49R	Stoney Creek SD STP	VA0028380	[ 7,300 7,309	0.65	4,800	550 548	0.74	410 ]
	[ B50R	North Fork Regional WWTP (1)	VA0090328	9,137			685 ]		
[ 200 ]	B51R	Strasburg STP	VA0020311	[ 12,000 11,939	0.65	7,800	900 895	0.74	660 ]
[ 200 ]	B50R	Woodstock STP	VA0026468	[ 9,700 24,364	0.65	6,300	730 1,827	0.74	540 ]
[ 220 ]	A06R	Basham Simms WWTF	VA0022802	[ 12,000 12,182	0.83	10,000	910 914	0.75	690 ]
[ 220 ]	A09R	Broad Run WRF	VA0091383	[ 120,000 121,822	0.83	100,000	3,000 3,046	0.75	2,300 ]
[ 220 ]	A08R	Leesburg WPCF	MD0066184	[ 120,000 121,822	0.83	100,000	9,100 9,137	0.75	6,800 ]
[ 220 ]	A06R	Round Hill Town WWTF	VA0026212	[ 6,100 9,137	0.83	5,000	460 685	0.75	340 ]
[ 550 ]	A25R	DSC - Section 1 WWTF	VA0024724	[ 36,000 36,547	1.00	36,000	2,200 2,193	1.00	2,200 ]
[ 550 ]	A25R	DSC - Section 8 WWTF	VA0024678	[ 36,000 36,547	1.00	36,000	2,200 2,193	1.00	2,200 ]
[ 550 ]	A25E	H L Mooney WWTF	VA0025101	[ 220,000 219,280	1.00	220,000	13,000 13,157	1.00	13,000 ]
[ 550 ]	A22R	UOSA - Centreville	VA0024988	[ 1,300,000 1,315,682	0.58	760,000	16,000 16,446	0.44	7,200 ]
[ 550 ]	A19R	Vint Hill WWTF	VA0020460	[ 5,500 5,482	0.58	3,200	550 548	0.44	240 ]
[ 740 ]	B08R	Opequon WRF	VA0065552	[ 100,000 102,336	0.74	76,000	7,700 7,675	0.75	5,700 ]
[ 740 ]	B08R	Parkins Mills STP	VA0075191	[ 26,000 36,547	0.74	19,000	1,900 2,741	0.75	1,400 ]
[ 900 ]	A13E	Alexandria SA WWTF	VA0025160	[ 490,000 493,381	1.00	490,000	30,000 29,603	1.00	30,000 ]
[ 900 ]	A12E	Arlington County Water PCF	VA0025143	[ 360,000 365,467	1.00	360,000	22,000 21,928	1.00	22,000 ]
[ 900 ]	A16R	Noman M Cole Jr PCF	VA0025364	[ 610,000 612,158	1.00	610,000	37,000 36,729	1.00	37,000 ]
[ 910 ]	A12R	Blue Plains (VA Share)	DC0021199	[ 580,000 581,458	1.00	580,000	26,000 26,166	1.00	26,000 ]
[ 970 ]	A26R	Quantico WWTF	VA0028363	[ 20,000 20,101	1.00	20,000	1,200 1,206	1.00	1,200 ]
[ 980 ]	A28R	Aquia WWTF	VA0060968	[ 59,000 73,093	1.00	59,000	3,600 4,386	1.00	3,600 ]
[ 980 ]	A31E	Colonial Beach STP	VA0026409	[ 18,000 18,273	1.00	18,000	1,800 1,827	1.00	1,800 ]

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[ 980 ]	A30E	Dahlgren WWTF	VA0026514	[ 9,100 9,137	1.00	9,100	910 914	1.00	910 ]
[ 980 ]	A29E	Fairview Beach	MD0056464	[ 1,800 1,827	1.00	1,800	180 183	1.00	180 ]
[ 980 ]	A30E	US NSWC-Dahlgren WWTF	VA0021067	[ 6,600 6,578	1.00	6,600	660 658	1.00	660 ]
	[ A31R	Purkins Corner STP	VA0070106	1,096			110 ]		
[ 980 ]	A26R	Widewater WWTF	VA0090387	4,600	1.00	4,600	270	1.00	270 ]
		TOTALS:		[ 4,916,700 5,121,242		3,887,100	245,200 252,860		213,130 ]

[ NOTE: (1) Shenandoah Co. - North Fork Regional WWTP waste load allocations (WLAs) based on a design flow capacity of 0.75 million gallons per day (MGD). If plant is not certified to operate at 0.75 MGD design flow capacity by 12/31/10, the WLAs will be deleted and facility removed from Significant Discharger List. ]

## 9 VAC 25-720-60. James River Basin.

**REGISTRAR'S NOTICE:** No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

### C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers [~~the associated delivery factors used for trading or offset purposes;~~] and the total nitrogen and total phosphorus [~~delivered~~] waste load [~~allocation allocations~~] for the basin. [~~These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~]

[ CBP Watershed Model Segment ]	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	[ TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr) ]	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	[ TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr) ]
[ 270 ]	I37R	Buena Vista STP	VA0020991	[ 35,000 27,410	0.30	10,000	4,400 2,056	1.10	4,800 ]
[ 270 ]	I09R	Clifton Forge STP	VA0022772	[ 39,000 24,364	0.30	12,000	4,900 1,827	1.10	5,400 ]
[ 270 ]	I09R	Covington STP	VA0025542	[ 44,000 36,547	0.30	13,000	5,500 2,741	1.10	6,100 ]
[ 270 ]	H02R	Georgia Pacific	VA0003026	[ 99,000 90,149	0.30	30,000	66,000 36,547	1.10	72,000 ]
[ 270 ]	I04R	Hot Springs Regional STP	VA0066303	40,000	0.30	3,100	4,300	1.10	4,400 ]
[ 270 ]	I37R	Lees Carpets	VA0004677	[ 22,000 30,456	0.30	6,600	22,000 12,182	1.10	24,000 ]
[ 270 ]	I35R	Lexington-Rockbridge WQCF	VA0088161	[ 29,000 36,547	0.30	8,800	3,600 2,741	1.10	4,000 ]
[ 270 ]	I09R	Low Moor STP	VA0027979	[ 7,300 6,091	0.30	2,200	910 457	1.10	1,000 ]
[ 270 ]	I09R	Lower Jackson River STP	VA0090671	[ 14,000 18,273	0.30	4,100	1,500 1,371	1.10	1,700 ]
[ 270 ]	I04R	MeadWestvaco	VA0003646	[ 370,000 394,400	0.30	110,000	160,000 159,892	1.10	180,000 ]
[ 280 ]	H12R	Amherst Town - STP	VA0031321	[ 6,000 7,309	0.61	3,700	550 548	1.10	600 ]
[ 280 ]	H05R	BWX Technologies Inc	VA0003697	[ 120,000 187,000	0.61	71,000	760 1,523	1.10	840 ]
[ 280 ]	H05R	Greif Inc. - Riverville	VA0006408	[ 65,000 73,246	0.61	40,000	31,000 29,694	1.10	34,000 ]
[ 280 ]	H31R	Lake Monticello	VA0024945	[ 17,000	0.61	10,000	4,100	1.10	4,200 ]

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		STP		12,121			909		
[ 280 ]	H05R	Lynchburg City STP [ (1) ]	VA0024970	[ 420,000 536,019	0.61	260,000	26,000 33,501	1.10	29,000 ]
[ 280 ]	H28R	Moore's Creek Regional STP	VA0025518	[ 290,000 182,734	0.61	180,000	18,000 13,705	1.10	20,000 ]
[ 290 ]	H38R	Powhatan CC STP	VA0020699	[ 7,700 5,726	0.81	6,200	480 429	1.10	530 ]
[ 300 ]	J11R	Crewe WWTP	VA0020303	[ 7,300 6,091	0.37	2,700	910 457	0.42	380 ]
[ 300 ]	J01R	Farmville WWTP	VA0083135	[ 27,000 29,237	0.37	9,900	3,400 2,193	0.42	1,400 ]
[ 600 ]	G02E	Brown and Williamson	VA0002780	[ 19,000 25,583	1.00	19,000	1,900 1,919	1.00	1,900 ]
[ 600 ]	G01E	E I du Pont - Spruance	VA0004669	[ 200,000 201,080	1.00	200,000	7,800 7,816	1.00	7,800 ]
[ 600 ]	G01E	Falling Creek WWTP	VA0024996	[ 140,000 123,041	1.00	140,000	14,000 9,228	1.00	14,000 ]
[ 600 ]	G01E	Henrico County WWTP	VA0063690	[ 780,000 913,668	1.00	780,000	78,000 68,525	1.00	78,000 ]
[ 600 ]	G03E	Honeywell - Hopewell	VA0005291	[ 1,100,000 1,090,798	1.00	1,100,000	52,000 51,592	1.00	52,000 ]
[ 600 ]	G03R	Hopewell WWTP	VA0066630	[ 1,200,000 1,827,336	1.00	1,200,000	53,000 45,683	1.00	53,000 ]
[ 600 ]	G15E	HRSD - Boat Harbor STP	VA0081256	[ 540,000 609,112	1.00	540,000	49,000 76,139	1.00	49,000 ]
[ 600 ]	G11E	HRSD - James River STP	VA0081272	[ 570,000 487,290	1.00	570,000	52,000 60,911	1.00	52,000 ]
[ 600 ]	G10E	HRSD - Williamsburg STP	VA0081302	[ 500,000 548,201	1.00	500,000	46,000 68,525	1.00	46,000 ]
[ 600 ]	G02E	Philip Morris - Park 500 [ (2) ]	VA0026557	[ 40,000 18,547	1.00	40,000	7,400 2,650	1.00	7,400 ]
[ 600 ]	G01E	Proctors Creek WWTP	VA0060194	[ 290,000 328,920	1.00	290,000	29,000 24,669	1.00	29,000 ]
[ 600 ]	G01E	Richmond WWTP [ (1) ]	VA0063177	[ 1,000,000 1,096,402	1.00	1,000,000	73,000 68,525	1.00	73,000 ]
	[ G02E	Dominion-Chesterfield (3)	VA0004146	352,036			210 ]		
[ 600 ]	J15R	South Central WW Authority	VA0025437	[ 210,000 280,192	1.00	210,000	21,000 21,014	1.00	21,000 ]
[ 610 ]	G07R	Chickahominy WWTP	VA0088480	[ 2,300 4,934	1.00	2,300	76 123	1.00	76 ]
[ 610 ]	G05R	Tyson Foods - Glen Allen	VA0004031	[ 21,000 19,552	1.00	21,000	430 326	1.00	430 ]
[ 620 ]	G11E	HRSD - Nansemond STP	VA0081299	[ 640,000 730,934	1.00	640,000	58,000 91,367	1.00	58,000 ]
[ 960 ]	G15E	HRSD - Army Base STP	VA0081230	[ 500,000 438,561	1.00	500,000	46,000 54,820	1.00	46,000 ]
[ 960 ]	G15E	HRSD - VIP WWTP	VA0081281	[ 1,100,000 974,579	1.00	1,100,000	97,000 121,822	1.00	97,000 ]
[ 960 ]	G15E	JH Miles & Company	VA0003263	[ 20,000 158,826	1.00	20,000	680 18,654	1.00	680 ]
[ 965 ]	C07E	HRSD - Ches.-Elizabeth STP	VA0081264	[ 1,500,000 1,526,409	1.00	1,500,000	110,000 108,674	1.00	110,000 ]
		TOTALS		[ 12,001,600 13,459,719		11,155,600	1,148,596 1,205,957		1,184,636 ]

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[ NOTES: (1) Waste load allocations for localities served by combined sewers are based on dry weather design flow capacity. During wet weather flow events the discharge shall achieve a TN concentration of 8.0 mg/l and a TP concentration of 1.0 mg/l.

(2) TN waste load allocation based on the portion of discharged nitrogen that is bioavailable to aquatic life.

(3) Waste load allocations are "net" loads, based on the portion of the nutrient discharge introduced by the facility's process waste streams, and not originating in raw water intake. ]

## 9 VAC 25-720-70. Rappahannock River Basin.

**REGISTRAR'S NOTICE:** No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

### C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers [~~the associated delivery factors used for trading or offset purposes,~~] and the total nitrogen and total phosphorus [~~delivered~~] waste load [allocation allocations] for the basin. [~~These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~]

[ CBP Watershed Model Segment ]	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	[ TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr) ]	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	[ TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr) ]
[ 230 ]	E09R	Culpeper WWTP [ (1) ]	VA0061590	[ <del>55,000</del> 54,820	<del>0.64</del>	<del>33,000</del>	4,400 4,112	1.03	<del>4,200</del>
[ 230 ]	E02R	Marshall WWTP	VA0031763	[ <del>7,800</del> 7,797	<del>0.64</del>	4,800	580 585	1.03	600
	[ E09R	Mountain Run STP	VA0090212	18,273			1,371 ]		
[ 230 ]	E13R	Orange STP	VA0021385	[ <del>18,000</del> 36,547	<del>0.64</del>	11,000	1,400 2,741	1.03	1,400
[ 230 ]	E11R	Rapidan STP	VA0090948	[ <del>7,300</del> 7,309	<del>0.64</del>	4,400	550 548	1.03	560
[ 230 ]	E02R	Remington WWTP	VA0076805	[ <del>24,000</del> 24,364	<del>0.64</del>	15,000	1,800 1,827	1.03	1,900
[ 230 ]	E02R	[ <del>South Wales Utility Clevengers Corner</del> ] STP	VA0080527	[ <del>11,000</del> 7,309	<del>0.64</del>	6,700	820 548	1.03	850
[ 230 ]	E02R	Warrenton Town STP	VA0021172	[ <del>30,000</del> 30,456	<del>0.64</del>	18,000	2,300 2,284	1.03	2,400
[ 230 ]	E18R	Wilderness WWTP	VA0083411	[ <del>9,100</del> 15,228	<del>0.64</del>	5,600	680 1,142	1.03	710
[ 560 ]	E20E	FMC WWTF	VA0068110	[ <del>66,000</del> 65,784	1.00	66,000	4,900 4,934	1.00	4,900
[ 560 ]	E20E	Fredericksburg WWTF	VA0025127	[ <del>43,000</del> 42,638	1.00	43,000	3,200 3,198	1.00	3,200
[ 560 ]	E21E	Haymount WWTF	VA0089125	[ <del>12,000</del> 7,066	1.00	12,000	870 530	1.00	870
[ 560 ]	E24E	Haynesville CC WWTP	VA0023469	[ <del>2,800</del> 2,802	1.00	2,800	210	1.00	210
	[ E21E	Hopyard Farms STP	VA0089338	6,091			457 ]		
[ 560 ]	E20E	Little Falls Run WWTF	VA0076392	[ <del>97,000</del> 97,458	1.00	97,000	7,300 7,309	1.00	7,300
[ 560 ]	E20E	Massaponax WWTF	VA0025658	[ <del>97,000</del> 97,458	1.00	97,000	7,300 7,309	1.00	7,300
[ 560 ]	E23R	Montross Westmoreland WWTP	VA0072729	[ <del>1,200</del> 1,218	1.00	1,200 ]	91	[ 1.00	91 ]
	[ E21E	Oakland Park	VA0086789	1,706			128 ]		



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		STP							
[ 560 ]	E23E	Tappahannock WWTP	VA0071471	[ 9,700 9,746	1.00	9,700	730 731	1.00	730 ]
[ 560 ]	E26E	Urbanna WWTP	VA0026263	[ 1,200 1,218	1.00	1,200	91	1.00	91 ]
[ 560 ]	E21R	US Army - Ft. A P Hill WWTP	VA0032034	[ 6,400 6,457	1.00	6,400	480 484	1.00	480 ]
[ 560 ]	E23E	Warsaw Aerated Lagoons	VA0026891	[ 3,600 3,655	1.00	3,600	270 274	1.00	270 ]
[ 580 ]	C01E	Omega Protein - Reedville	VA0003867	[ 16,000 21,213	1.00	16,000	1,200 1,591	1.00	1,200 ]
[ 580 ]	C01E	Reedville Sanitary District	VA0060712	[ 2,400 2,436	1.00	2,400	180 183	1.00	180 ]
[ 930 ]	C01E	Kilmarnock WTP	VA0020788	[ 6,100 6,091	1.00	6,100	460 457	1.00	460 ]
		TOTALS:		[ 526,600 575,140		462,900	39,512 43,135		39,902 ]

[ NOTE: (1) Town of Culpeper WWTP waste load allocations (WLAs) based on a design flow capacity of 4.5 million gallons per day (MGD). If plant is not certified to operate at 4.5 MGD design flow capacity by 12/31/10, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,741 lbs/yr, based on a design flow capacity of 3.0 MGD. ]

## 9 VAC 25-720-110. Chesapeake Bay - Small Coastal - Eastern Shore River Basin.

**REGISTRAR'S NOTICE:** No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

### C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers [~~the associated delivery factors used for trading or offset purposes,~~] and the total nitrogen and total phosphorus [~~delivered~~] waste load [~~allocation allocations~~] for the basin. [~~These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~ ]

[ <del>GBP Watershed Model Segment</del> ]	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	[ <del>TN Delivery Factor</del> ]	TN Waste Load <del>Delivered</del> Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	[ <del>TP Delivery Factor</del> ]	TP Waste Load <del>Delivered</del> Allocation (lbs/yr)
[ 440 ]	C16E	Cape Charles Town WWTP	VA0021288	[ 6,100 6,091	1.00	6,100	460 457	1.00	460 ]
[ 440 ]	C11E	Onancock WWTP	VA0021253	[ 3,000 3,046	1.00	3,000	230	1.00	230 ]
[ 440 ]	C13E	Shore Memorial Hospital	VA0027537	[ 1,200 1,218	1.00	1,200 ]	91	[ 1.00	91 ]
[ 440 ]	C10E	Tangier WWTP	VA0067423	[ 1,200 1,218	1.00	1,200 ]	91	[ 1.00	91 ]
[ 440 ]	C10R	Tyson Foods - Temperanceville	VA0004049	[ 20,000 22,842	1.00	20,000 ]	980	[ 1.00	980 ]
		TOTALS:		[ 31,500 34,415		31,500	1,852 2,010		1,852 ]

## 9 VAC 25-720-120. York River Basin.

**REGISTRAR'S NOTICE:** No changes are proposed to subsections A and B; therefore, the text of those subsections is not set out.

### C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers [~~the associated delivery factors used for trading or offset purposes,~~] and the total nitrogen and total phosphorus [~~delivered~~] waste load [~~allocation allocations~~] for the basin. [~~These individual significant discharger waste load allocations may be revised~~ ]

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~~through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010. ]~~

[ CBP Watershed Model Segment ]	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	[ TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr) ]	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	[ TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr) ]
[ 240 ]	F20R	Caroline County STP	VA0073504	[ 7,300 6,091	0.42	3,100	460 457	0.43	200 ]
[ 250 ]	F01R	Gordonsville STP	VA0021105	[ 16,000 11,451	0.02	330	1,000 859	0.58	590 ]
[ 260 ]	F04R	Ashland WWTP	VA0024899	[ 38,000 24,364	0.51	19,000	2,400 1,827	0.58	1,400 ]
[ 260 ]	F09R	Doswell WWTP	VA0029521	[ 110,000 59,510	0.51	56,000	6,800 20,101	0.58	4,000 ]
[ 590 ]	F27E	Giant Yorktown Refinery	VA0003018	[ 170,000 167,128	1.00	170,000	22,000 22,111	1.00	22,000 ]
[ 590 ]	F27E	HRSD - York River STP	VA0081311	[ 310,000 182,734	1.00	310,000	19,000 13,705	1.00	19,000 ]
[ 590 ]	F14R	Parham Landing WWTP	VA0088331	[ 5,200 36,547	1.00	5,200	520 2,741	1.00	520 ]
[ 590 ]	F14E	Smurfit Stone - West Point	VA0003115	[ 300,000 259,177	1.00	300,000	28,000 70,048	1.00	28,000 ]
[ 590 ]	F12E	Totopotomoy WWTP	VA0089915	[ 120,000 60,911	1.00	120,000	7,600 4,568	1.00	7,600 ]
[ 590 ]	F25E	West Point STP	VA0075434	[ 15,000 7,309	1.00	15,000	910 548	1.00	910 ]
[ 940 ]	C04E	HRSD Mathews Courthouse STP	VA0028819	[ 1,900 1,218	1.00	1,900	120 91	1.00	120 ]
		TOTALS:		[ 1,093,400 816,442		1,000,530	88,810 137,057		84,340 ]

VA.R. Doc. No. R04-78; Filed July 6, 2005, 10:32 a.m.

**Notice of Suspension of Effective Date and Extension of Public Comment Period**

Titles of Regulations: **9 VAC 25-40. Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed (amending 9 VAC 25-40-10, 9 VAC 25-40-30, 9 VAC 25-40-40, and 9 VAC 25-40-50).**

**9 VAC 25-720. Water Quality Management Planning Regulation (amending 9 VAC 25-720-10, 9 VAC 25-720-30 through 9 VAC 25-720-70, 9 VAC 25-720-110, and 9 VAC 25-720-120).**

Notice is hereby given that on June 28, 2005, the State Water Control Board adopted revisions to the Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed (9 VAC 25-40) and the Water Quality Management Planning Regulation (9 VAC 25-720), and that the board suspended the effective date of this regulatory action under § 2.2-4015 A 4 of the Virginia Administrative Process Act to allow time for a 30-day public review and comment period on changes made since the original proposals were released on February 21, 2005. The board is receiving comment only on the changes that have been made to make the regulations final. These changes are shown in brackets “[ ]” in the final version of the regulations published in the Virginia Register.

Summary of regulations:

1. Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed (9 VAC 25-40): Revise the existing Point Source Policy for Nutrient Enriched Waters, to conform to provisions of the 2005 Nutrient Credit Exchange Program legislation (Chapter 3.1 (§§ 62.1-44.19:12 through 62.1-44.19:19) of Title 62.1 of the Code of Virginia), and as appropriate establish authority for technology-based, annual average total nitrogen and total phosphorus concentration requirements for certain dischargers located in Virginia's Chesapeake Bay watershed.

2. Water Quality Management Planning Regulation (9 VAC 25-720): Establish total nitrogen and total phosphorus annual waste load allocations for certain dischargers within Virginia's portion of the Chesapeake Bay watershed. In addition, present implementation items related to trading and offsets and conform to provisions enacted by the 2005 Nutrient Credit Exchange Program legislation (Chapter 3.1 (§§ 62.1-44.19:12 through 62.1-44.19:19) of Title 62.1 of the Code of Virginia), to assist in the achievement and maintenance of the waste load allocations.

Public participation and contact information: In addition to comments on changes made since the original proposals were released for public review and comment on February 21, 2005, the board is seeking comments on the costs and benefits of the proposal.

Anyone wishing to submit written comments for the public comment file may do so at the public meeting or by mail, email or fax to Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, (c/o John Kennedy), (804) 698-4312, fax (804) 698-4116, email [jmkennedy@deq.virginia.gov](mailto:jmkennedy@deq.virginia.gov). Written comments (including

email) must include the name and address of the commenter. In order to be considered comments must be received between July 25, 2005, and August 24, 2005.

A public meeting will be held at the DEQ Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060, (804) 527-5020, on August 11, 2005, at 10 a.m.

The meeting will be held at a public facility accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact John Kennedy at the address or phone numbers above. Persons who wish to request interpreter services for the deaf must notify John Kennedy no later than July 20, 2005.

Public comment will be accepted until 5 p.m. on August 24, 2005.

Copies of the amended regulations, summary of comments received on the original proposals and agency response, the presentation materials used at the State Water Control Board's June 28, 2005, meeting, and the river basin-individual facility waste load allocations may be obtained from the contact person above or at the DEQ webpage: <http://www.deq.state.va.us/bay/multi.html>.

VA.R. Doc. No. R04-78; Filed July 6, 2005, 10:32 a.m.

\* \* \* \* \*

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-310, 9 VAC 25-260-410 and 9 VAC 25-260-530).**

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

Effective Date: Suspended (see suspension notice following the regulation).

Agency Contact: Eleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4522, or e-mail [emdaub@deq.virginia.gov](mailto:emdaub@deq.virginia.gov).

Summary:

*These amendments to the regulations were adopted on June 28, 2005, by the State Water Control Board and the effective date was suspended under § 2.2-4015 A 4 of the Virginia Administrative Process Act to allow time for a 30-day public review and comment period on changes made to paragraph bb of 9 VAC 25-260-310 (numerical chlorophyll a criteria for the James River) and the impact that the details and the conclusions of the James River loading alternatives analysis conducted by the Department of Environmental Quality have on the criteria in paragraph bb of 9 VAC 25-260-310.*

*These three sections (9 VAC 25-260-310, 9 VAC 25-260-410 and 9 VAC 25-260-530) were originally part of a larger rulemaking regarding the control of nutrients and sediments to the Chesapeake Bay and tidal tributaries that was deferred by the board at the March 15, 2005, State Water Control Board meeting (9 VAC 25-260-5, 9 VAC 25-260-10, 9 VAC 25-260-50, 9 VAC 25-260-185, 9 VAC 25-260-186*

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and 9 VAC 25-260-350). Those amendments were published in the Virginia Register on May 16, 2005 (21:18 VA.R. 2374-2379) and became effective on June 24, 2005.

The rulemaking consists of amendments to the site specific water quality standards for numerical water quality criteria for chlorophyll a in the James River and dissolved oxygen in the Mattaponi and Pamunkey Rivers. Changes made from the proposed include the clarification of the chlorophyll a criteria as 'seasonal means' and the adjustment of the criterion in the James lower tidal fresh region of the river from 20 micrograms per liter ( $\mu\text{g/L}$ ) to 25  $\mu\text{g/L}$ . The existing water quality standards regulation contains water quality criteria (including for dissolved oxygen), use designations and an antidegradation policy for all state waters, but there are no numerical criteria for chlorophyll a.

In response to public comment from the Virginia Association of Municipal Wastewater Agencies (VAMWA) and inquiries from Senator Martin E. Williams during the 2005 Session of the General Assembly, DEQ committed to conduct an alternatives analysis to evaluate the benefits, detriments and costs of a range of nutrient loading scenarios and the corresponding predicted chlorophyll a levels. The purpose of the modeling efforts was to identify levels of nutrient reduction that might result in significant environmental benefits and to distinguish these alternatives from efforts that show diminishing returns or potential adverse effects. The results of this analysis necessitated changing the criterion in the James lower tidal fresh region to 25 micrograms per liter ( $\mu\text{g/L}$ ).

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

## 9 VAC 25-260-310. Special standards and requirements.

The special standards are shown in small letters to correspond to lettering in the basin tables. The special standards are as follows:

a. Shellfish waters. In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present, including those waters on which condemnation or restriction classifications are established by the State Department of Health, the following criteria for fecal coliform bacteria will apply:

The geometric mean fecal coliform value for a sampling station shall not exceed an MPN (most probable number) of 14 per 100 ml of sample and the 90th percentile shall not exceed 43 for a 5-tube, 3-dilution test or 49 for a 3-tube, 3-dilution test.

The shellfish area is not to be so contaminated by radionuclides, pesticides, herbicides, or fecal material that the consumption of shellfish might be hazardous.

b. Policy for the Potomac Embayments. At its meeting on September 12, 1996, the board adopted a policy (9 VAC 25-415, Policy for the Potomac Embayments) to control point source discharges of conventional pollutants into the

Virginia embayment waters of the Potomac River, and their tributaries, from the fall line at Chain Bridge in Arlington County to the Route 301 bridge in King George County. The policy sets effluent limits for BOD<sub>5</sub>, total suspended solids, phosphorus, and ammonia, to protect the water quality of these high profile waterbodies.

- c. Cancelled.
- d. Cancelled.
- e. Cancelled.
- f. Cancelled.

g. Occoquan watershed policy. At its meeting on July 26, 1971 (Minute 10), the board adopted a comprehensive pollution abatement and water quality management policy for the Occoquan watershed. The policy set stringent treatment and discharge requirements in order to improve and protect water quality, particularly since the waters are an important water supply for Northern Virginia. Following a public hearing on November 20, 1980, the board, at its December 10-12, 1980 meeting, adopted as of February 1, 1981, revisions to this policy (Minute 20). These revisions became effective March 4, 1981. Additional amendments were made following a public hearing on August 22, 1990, and adopted by the board at its September 24, 1990, meeting (Minute 24) and became effective on December 5, 1990. Copies are available upon request from the Department of Environmental Quality.

- h. Cancelled.
- i. Cancelled.
- j. Cancelled.
- k. Cancelled.
- l. Cancelled.

m. The following effluent limitations apply to wastewater treatment facilities in the entire Chickahominy watershed above Walker's Dam (this excludes effluents consisting solely of stormwater):

CONSTITUENT	CONCENTRATION
1. Biochemical Oxygen demand 5-day at 20	6.0 mg/l monthly average, with not more than 5% of individual samples to exceed 8.0 mg/l
2. Settleable Solids	Not to exceed 0.1 ml/l
3. Suspended Solids	5.0 mg/l monthly average, with not more than 5% of individual samples to exceed 7.5 mg/l
4. Ammonia Nitrogen	Not to exceed 2.0 mg/l as N
5. Total Phosphorus	Not to exceed 0.1 mg/l monthly average for all discharges with the exception of Tyson Foods, Inc. which shall meet 0.3 mg/l monthly average and 0.5 mg/l daily maximum.

6. Other Physical and Chemical Constituents Other physical or chemical constituents not specifically mentioned will be covered by additional specifications as conditions detrimental to the stream arise. The specific mention of items 1 through 5 does not necessarily mean that the addition of other physical or chemical constituents will be condoned.

n. No sewage discharges, regardless of degree of treatment, should be allowed into the James River between Boshier and Williams Island Dams.

o. The concentration and total amount of impurities in Tuckahoe Creek and its tributaries of sewage origin shall be limited to those amounts from sewage, industrial wastes, and other wastes which are now present in the stream from natural sources and from existing discharges in the watershed.

p. Cancelled.

q. Cancelled.

r. Cancelled.

s. Chlorides not to exceed 40 mg/l at any time.

t. Cancelled.

u. Maximum temperature for the New River Basin from West Virginia state line upstream to the Giles--Montgomery County line:

The maximum temperature shall be 27°C (81°F) unless caused by natural conditions; the maximum rise above natural temperatures shall not exceed 2.8°C (5°F).

This maximum temperature limit of 81°F was established in the 1970 water quality standards amendments so that Virginia temperature criteria for the New River would be consistent with those of West Virginia, since the stream flows into that state.

v. The maximum temperature of the New River and its tributaries (except trout waters) from the Montgomery-Giles County line upstream to the Virginia-North Carolina state line shall be 29°C (84°F).

w. Cancelled.

x. Clinch River from the confluence of Dumps Creek at river mile 268 at Carbo downstream to river mile 255.4. The special water quality criteria for copper (measured as total recoverable) in this section of the Clinch River are 12.4µg/l for protection from chronic effects and 19.5µg/l for protection from acute effects. These site-specific criteria are needed to provide protection to several endangered species of freshwater mussels.

y. Tidal freshwater Potomac River and tributaries that enter the tidal freshwater Potomac River from Cockpit Point (below Occoquan Bay) to the fall line at Chain Bridge. During November 1 through February 14 of each year the 30-day average concentration of total ammonia nitrogen (in mg N/L) shall not exceed, more than once every three years on the average, the following chronic ammonia criterion:

$$\left( \frac{0.0577}{1 + 10^{7.688 - \text{pH}}} + \frac{2.487}{1 + 10^{\text{pH} - 7.688}} \right) \times 1.45(10^{0.028(25 - \text{MAX})})$$

MAX = temperature in °C or 7, whichever is greater.

The default design flow for calculating steady state waste load allocations for this chronic ammonia criterion is the 30Q10, unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of this water quality criterion.

z. A site specific dissolved copper aquatic life criterion of 16.3 µg/l for protection from acute effects and 10.5µg/l for protection from chronic effects applies in the following area:

Little Creek to the Route 60 (Shore Drive) bridge including Little Channel, Desert Cove, Fishermans Cove and Little Creek Cove.

Hampton Roads Harbor including the waters within the boundary lines formed by I-664 (Monitor-Merrimac Bridge Tunnel) and I-64 (Hampton Roads Bridge Tunnel), Willoughby Bay and the Elizabeth River and its tidal tributaries.

This criterion reflects the acute and chronic copper aquatic life criterion for saltwater in 9 VAC 25-260-140 B X a water effect ratio. The water effect ratio was derived in accordance with 9 VAC 25-260-140 F.

aa. *The following site-specific dissolved oxygen criteria apply to the tidal Mattaponi and Pamunkey Rivers and their tidal tributaries because of seasonal lower dissolved oxygen concentration due to the natural oxygen depleting processes present in the extensive surrounding tidal wetlands. These criteria apply June 1 through September 30 to Chesapeake Bay segments MPNTF, MPNOH, PMKTF, PMKOH and are implemented in accordance with subsection D of 9 VAC 25-260-185. These criteria supersede the open water criteria listed in subsection A of 9 VAC 25-260-185.*

Designated use	Criteria Concentration/ Duration	Temporal Application
Open Water	30 day mean > 4.0 mg/l	June 1 - September 30
	Instantaneous minimum > 3.2 mg/l at temperatures <29°C	
	Instantaneous minimum > 4.3 mg/l at temperatures > 29°C	

bb. *The following site specific numerical chlorophyll a criteria apply March 1 through May 31 and July 1 through September 30 [ as seasonal means ] to the tidal James River (excludes tributaries) segments JMSTF2, JMSTF1, JMSOH, JMSMH, JMSPH and are implemented in accordance with subsection D of 9 VAC 25-260-185.*

Designated Use	Chlorophyll a ug/l	Chesapeake Bay Program Segment	Temporal Application
Open Water	10	JMSTF2	March 1 - May 31
	15	JMSTF1	

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	15	JMSOH	July 1 - September 30
	10	JMSMH	
	10	JMSPH	
	15	JMSTF2	
	[ 20 25 ]	JMSTF1	
	15	JMSOH	
	10	JMSMH	
	10	JMSPH	

## 9 VAC 25-260-410. James River Basin (Lower).

SEC. CLASS	SP.	STDS.	SECTION DESCRIPTION
1	II	a,z, <i>bb</i> NEW-19	James River and its tidal tributaries from Old Point Comfort - Fort Wool to the end of tidal waters (fall line, Mayo's Bridge, 14th Street, Richmond), except prohibited or spoil areas, unless otherwise designated in this chapter.
1a	III	NEW-19	Free flowing or nontidal portions of streams in Section 1, unless otherwise designated in this chapter.
1b	II	a,z, NEW-19	Eastern and Western Branches of the Elizabeth River and tidal portions of their tributaries from their confluence with the Elizabeth River to the end of tidal waters.
1c	III	NEW-19	Free flowing portions of the Eastern Branch of the Elizabeth River and its tributaries.
1d	II	a,z, NEW-19	Southern Branch of the Elizabeth River from its confluence with the Elizabeth River to the lock at Great Bridge.
1e	III	NEW-19	Free flowing portions of the Western Branch of the Elizabeth River and of the Southern Branch of the Elizabeth River from their confluence with the Elizabeth River to the lock at Great Bridge.
1f	II	a,NEW-19	Nansemond River and its tributaries from its confluence with the James River to Suffolk (dam at Lake Meade), unless otherwise designated in this chapter.
1g	III	NEW-19	Shingle Creek from its confluence with the Nansemond River to its headwaters in the Dismal Swamp.
1h	III	PWS,NEW-19	Lake Prince, Lake Burnt Mills and Western Branch impoundments for Norfolk raw water supply and Lake Kilby - Cahoon Pond, Lake Meade and Lake Speight impoundments for Portsmouth raw water supply and including all tributaries to these impoundments.
1i	III	NEW-19	Free flowing portions of the Pagan River and its free flowing tributaries.
1j			(Deleted)
1k	III	PWS,NEW-19	Skiffes Creek Reservoir (Newport News water impoundment).
1l	III	PWS,NEW-19	The Lone Star lakes and impoundments in the City of Suffolk, Chuckatuck Creek watershed which serve as a water source for the City of Suffolk.

1m	III	PWS,NEW-19	The Lee Hall Reservoir system, near Skiffes Creek and the Warwick River, in the City of Newport News.
1n	III	PWS,NEW-19	Chuckatuck Creek and its tributaries from Suffolk's raw water intake (at Godwin's Millpond) to a point 5 miles upstream.
1o	II	PWS,NEW-18, <i>bb</i>	James River from City Point (Hopewell) to a point 5 miles above American Tobacco Company's raw water intake.
1p	III	PWS,NEW-18	Free flowing tributaries to section 1o.
2	III	NEW-18, 19	Free flowing tributaries of the James River from Buoy 64 to Brandon and free flowing tributaries of the Chickahominy River to Walkers Dam, unless otherwise designated in this chapter.
2a	III	PWS,NEW-18	Diascund Creek and its tributaries from Newport News' raw water intake dam to its headwaters.
2b	III	PWS,NEW-18	Little Creek Reservoir and its tributaries from the City of Newport News impoundment dam to 5 miles upstream of the raw water intake.
3	III	m,NEW-18	Chickahominy River and its tributaries from Walkers Dam to Bottoms Bridge (Route 60 bridge), unless otherwise designated in this chapter.
3a	III	PWS,m,NEW-18	Chickahominy River from Walkers Dam to a point 5 miles upstream.
4	III	m	Chickahominy River and its tributaries, unless otherwise designated in this chapter, from Bottoms Bridge (Route 60 bridge) to its headwaters.

## 9 VAC 25-260-530. York River Basin.

SEC.	CLASS	SP.	STDS	SECTION DESCRIPTION
1	II	a,NEW-17, <i>aa</i>		York River and the tidal portions of its tributaries from Goodwin Neck and Sandy Point upstream of Thorofare Creek and Little Salem Creek near West Point; Mattaponi River and the tidal portions of its tributaries from Little Salem Creek to the end of tidal waters; Pamunkey River and the tidal portions of its tributaries from Thorofare Creek near West Point to the end of tidal waters.
2	III	NEW-17		Free flowing tributaries of the York River, free flowing tributaries of the Mattaponi River to Clifton and the Pamunkey River to Romancoke, unless otherwise designated in this chapter.
2a	III	PWS,NEW-17		Waller Mill Reservoir and its drainage area above Waller Mill dam which serves as a raw water supply for the City of Williamsburg.
2b	III	PWS,NEW-17		Jones Pond (a tributary of Queen Creek near Williamsburg which serves

			as the raw water supply for Cheatham Annex Naval Station) and its tributaries to points 5 miles upstream.
3	III		Free flowing portions of the Mattaponi and Pamunkey Rivers, free flowing tributaries of the Mattaponi above Clifton, and free flowing tributaries of the Pamunkey above Romancoke, unless otherwise designated in this chapter.
3a	III	PWS	South Anna River from Ashland's raw water intake to a point 5 miles upstream.
3b	III	PWS	Northeast Creek from the Louisa County Water Authority's impoundment dam (approximately 1/8 mile upstream of Route 33) to its headwaters.
3c	III		South Anna River from Route 15 upstream to a point 1.5 miles below the effluent from the Gordonsville Sewage Treatment Plant.
3d	III	PWS	Ni River and its tributaries from Spotsylvania's raw water intake near Route 627 to their headwaters.
3e	III	PWS	The North Anna River and its tributaries from Hanover County's raw water intake near Doswell (approximately 1/2 mile upstream from State Route 30) to points 5 miles upstream.
3f	III	PWS	Stevens Mill Run from the Lake Caroline water impoundment, and other tributaries into the impoundment upstream to their headwaters.

VA.R. Doc. No. R04-39; Filed July 6, 2005, 10:32 a.m.

## Notice of Suspension of Effective Date and Extension of Public Comment Period

**Title of Regulation: 9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-310, 9 VAC 25-260-410 and 9 VAC 25-260-530).**

Notice is hereby given that on July 25, 2005, the State Water Control Board adopted revisions to the Water Quality Standards 9 VAC 25-260-310, 9 VAC 25-260-410 and 9 VAC 25-260-530 and that the board is suspending the effective date of this regulatory action under § 2.2-4015 A 4 of the Virginia Administrative Process Act to allow time for a 30-day public review and comment period on changes made to paragraph bb of 9 VAC 25-260-310 (numerical chlorophyll *a* criteria for the James River) and the impact that the details and the conclusions of the James River loading alternatives analysis conducted by the Department of Environmental Quality have on the criteria in paragraph bb of 9 VAC 25-260-310.

Summary of regulation: This provision adds numerical chlorophyll *a* criteria for the James River. These criteria are added to the special standards and designations (9 VAC 25-260-310) and listed in the river basin sections table for the James River (9 VAC 25-260-410). The criteria apply during

the spring and summer months. Changes made from the proposed include the clarification of the chlorophyll *a* criteria as 'seasonal means' and the adjustment of the criterion in the James lower tidal fresh region of the river from 20 micrograms per liter (µg/L) to 25 µg/L.

In response to public comment from the Virginia Association of Municipal Wastewater Agencies (VAMWA) and inquiries from Senator Martin E. Williams during the 2005 Session of the General Assembly, DEQ committed to conduct an alternatives analysis to evaluate the benefits, detriments and costs of a range of nutrient loading scenarios and the corresponding predicted chlorophyll *a* levels. The purpose of the modeling efforts was to identify levels of nutrient reduction that might result in significant environmental benefits and to distinguish these alternatives from efforts that show diminishing returns or potential adverse effects. The results of this analysis necessitated changing the criterion in the James lower tidal fresh region to 25 micrograms per liter (µg/L).

This provision also adds numerical dissolved oxygen criteria for the Mattaponi and Pamunkey Rivers. These criteria are added to the special standards and designations (9 VAC 25-260-310) and listed in the river basin sections tables for the York River (9 VAC 25-260-530). The criteria apply during the summer months and supersede the open-water criteria in subsection A of 9 VAC 25-260-185 that apply year-round to all tidal open waters. No changes were made to this provision from the proposed.

Public participation and contact information: In addition to comments on changes made to paragraph bb of 9 VAC 25-260-310 (numerical chlorophyll *a* criteria for the James River) and the impact that the details and the conclusions of the James River loading alternatives analysis conducted by the Department of Environmental Quality have on the criteria in paragraph bb of 9 VAC 25-260-310, the board is seeking comments on the costs and benefits of the proposal.

Anyone wishing to submit written comments for the public comment file may do so at the public meeting or by mail, email or fax to Department of Environmental Quality, P.O. Box 10009, Richmond, VA, 23240-0009 (c/o Eleanore Daub), (804) 698-4111, fax (804) 698-4116, email [emdaub@deq.virginia.gov](mailto:emdaub@deq.virginia.gov). Written comments (including email) must include the name and address of the commenter. In order to be considered comments must be received between July 25, 2005, and August 24, 2005.

A public meeting will be held at the DEQ Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060, (804) 527-5020, on August 11, 2005, at 1 p.m.

The meeting will be held at a public facility accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Eleanore Daub at the address or phone numbers above. Persons who wish to request interpreter services for the deaf must notify Eleanore Daub no later than July 20, 2005.

Public comment will be accepted until August 24, 2005.

Copies of the amendments, the James River loading alternatives analysis conducted by the Department of Environmental Quality or background information may be

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obtained from the contact person above or at the website <http://www.deq.virginia.gov/wqs/rule.html#NUT1>

VA.R. Doc. No. R04-39; Filed July 6, 2005, 10:33 a.m.

## Notice of Effective Date

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-5, 9 VAC 25-260-10, 9 VAC 25-260-50 and 9 VAC 25-260-350; adding 9 VAC 25-260-185 and 9 VAC 25-260-186).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Effective Date: June 24, 2005.

On March 15, 2005, the State Water Control Board adopted revisions to the Water Quality Standards in 9 VAC 25-260-5, 9 VAC 25-260-10, 9 VAC 25-260-50 and 9 VAC 25-260-350, and added 9 VAC 25-260-185 and 9 VAC 25-260-186. These revisions relate to water quality standards to protect designated uses from the impacts of nutrients and suspended sediments in the Chesapeake Bay and its tidal tributaries.

The amendments were published as final regulations on May 16, 2005, Volume 21, Issue 18 of the Virginia Register with an effective date upon filing a notice of EPA approval with the Registrar of Regulations. The State Water Control Board hereby notices EPA approval of these revisions to the Water Quality Standards via a letter dated June 24, 2005, from N. M. Capacasa, Director of the Water Protection Division, EPA Region 3, to Robert G. Burnley, Director of the Virginia Department of Environmental Quality. The effective date of these amendments is June 24, 2005. Copies are available online at <http://www.deq.state.va.us/wqs>, by calling toll-free 1-800-592-5482, ext. 4111, local (804) 698-4111, by sending a written request to Eleanore Daub at P.O. Box 10009, Richmond, VA 23240, or by e-mail request to [emdaub@deq.virginia.gov](mailto:emdaub@deq.virginia.gov).

VA.R. Doc. No. R04-39; Filed June 24, 2005, 4:26 p.m.

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

Titles of Regulations: **12 VAC 5-390. Regulations for the Licensure of Hospice (REPEAL) (repealing 12 VAC 5-390-10 through 12 VAC 5-390-660).**

**12 VAC 5-391. Regulations for the Licensure of Hospice (adding 12 VAC 5-391-10 through 12 VAC 5-391-500).**

Statutory Authority: §§ 32.1-12 and 32.1-162.5 of the Code of Virginia.

Effective Date: November 1, 2005.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Center for Quality Health Care, Department of Health, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149, or e-mail [carrie.eddy@vdh.virginia.gov](mailto:carrie.eddy@vdh.virginia.gov).

## Summary:

*The regulation is a comprehensive revision of the current regulation addressing hospice programs. In addition to the provisions as required by § 32.1-162.12 of the Code of Virginia, the regulation also addresses (i) the services unique to a hospice program such as volunteer services, bereavement counseling, family-focused service, palliative versus curative care, and the interdisciplinary team approach to service provision; (ii) reorganization of the regulation into a user-friendlier format; and (iii) reconciling the state regulatory requirements with the federal regulations, where appropriate, to eliminate contradictions. Because of the extensive revision to the current regulation (12 VAC 5-390), the department chose to replace the current regulation and promulgate a new regulation in its place.*

*No substantial changes were made to the proposed regulation. The changes made as a result of the public comment period are claritive in nature and do not substantially alter the regulation.*

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

### CHAPTER 391. REGULATIONS FOR THE LICENSURE OF HOSPICE.

#### PART I. DEFINITIONS AND GENERAL INFORMATION.

#### **12 VAC 5-391-10. Definitions.**

*The following words and terms when used in these regulations shall have the following meaning unless the context clearly indicates otherwise.*

*[ "Activities of daily living" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. ]*

*"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient by (i) a practitioner or by his authorized agent and under his supervision or (ii) the patient at the direction and in the presence of the practitioner as defined in § 54.1-3401 of the Code of Virginia.*

*"Administrator" means a person designated, in writing, by the governing body as having the necessary authority for the day-to-day management of the hospice program. The administrator must be a [ full-time ] member of the hospice staff. The administrator [ and the , ] director of nursing [ , or another clinical director ] may be the same individual if that individual is dually qualified.*

*"Attending physician" means a physician licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, or licensed in an adjacent state and identified by the patient as having the primary responsibility in determining the delivery of the patient's medical care. [ The responsibilities of physicians contained in this chapter may be implemented by nurse practitioners or physician assistants as*



assigned by the supervising physician and within the parameters of professional licensing. ]

"Available at all times during operating hours" means an individual is available on the premises or by telecommunications.

"Barrier crimes" means certain offenses specified in § 32.1-162.9:1 of the Code of Virginia that automatically bar an individual convicted of those offenses from employment with a hospice program.

"Bereavement service" means counseling and support offered to the patient's family after the patient's death.

"Commissioner" means the State Health Commissioner.

"Coordinated program" means a continuum of palliative and supportive care provided to a terminally ill patient and his family, 24 hours a day, seven days a week.

"Core services" means those services that must be provided by a hospice program. Such services are: (i) nursing services, (ii) physician services, (iii) counseling services, [~~(iv) bereavement and spiritual support, (v) ]~~ and (iv) medical social services [ , and ~~(vi) dietary services~~ ].

[ "Counseling services" means the provision of bereavement services, dietary services, spiritual and any other counseling services for the patient and family while the person is enrolled in the program. ]

"Criminal record report" means the statement issued by the Central Criminal Records Exchange, [ Virginia ] Department of State Police.

"Dedicated hospice facility" means an institution, place, or building providing room, board, and appropriate patient care 24 hours a day, seven days a week to individuals diagnosed with a terminal illness requiring such care pursuant to a physician's orders.

"Dispense" means to deliver a drug to the ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery as defined in § 54.1-3401 of the Code of Virginia.

"Employee" means an individual who is appropriately trained and performs a specific job function for the hospice program on a full or part-time basis with or without financial compensation.

"Governing body" means the individual, group or governmental agency that has legal responsibility and authority over the operation of the hospice program.

"Home attendant" means a nonlicensed individual performing personal care and environmental services, under the supervision of the appropriate health professional, to a patient in the patient's residence. Home attendants are also known as [ certified nursing assistants or CNAs, ] home care aides, home health aides, and personal care aides.

"Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration

providing palliative and supportive medical and other health services to terminally ill patients and their families. A hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs that are experienced during the final stages of illness, and during dying and bereavement. Hospice care shall be available 24 hours a day, seven days a week.

[ "~~Immediately~~" means within 24 consecutive hours. ]

"Inpatient" means services provided to a hospice patient who is admitted to a hospital or nursing facility on a short-term basis [ for the purpose of curative care unrelated to the diagnosed terminal illness. Inpatient does not mean services provided in a dedicated hospice facility ].

"Interdisciplinary group" means the group responsible for assessing the health care and special needs of the patient and the patient's family. Providers of special services, such as mental health, pharmacy, and any other appropriate associated health services may also be included on the team as the needs of the patient dictate. The interdisciplinary group is often referred to as the IDG.

"Licensee" means a licensed hospice program provider.

"Medical director" means a physician currently licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, and responsible for the medical direction of the hospice program.

"Medical record" means a continuous and accurate [ ~~written~~ documented ] account of services provided to a patient, including the prescription and delivery of the treatment or care.

"Nursing services" means the patient care performed or supervised by a registered nurse according to a plan of care.

"Operator" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity responsible for the day-to-day administrative management and operation of the hospice.

"Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process. Palliative care means treatment to enhance comfort and improve the quality of a patient's life during the last phase of his life.

"Patient" means a diagnosed terminally ill [ ~~patient~~ individual ], with an anticipated life expectancy of six months or less, who, alone or in conjunction with designated family members or representatives, has voluntarily requested admission and been accepted into a licensed hospice program.

"Patient's family" means the hospice patient's immediate kin, including spouse, brother, sister, child or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the patient's family by mutual agreement among the patient, the relation or individual.

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"Patient's residence" means the place where the individual or patient makes his home.

"Person" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that operates a hospice.

"Plan of care" means a written plan of services developed by the interdisciplinary group to maximize patient comfort by symptom control to meet the physical, psychosocial, spiritual and other special needs that are experienced during the final stages of illness, during dying, and bereavement.

"Primary caregiver" means an individual that, through mutual agreement with the patient and the hospice program, assumes responsibility for the patient's care.

"Progress note" means a [written documented] statement contained in a patient's medical record, dated and signed by the person delivering the care, treatment or service, describing the treatment or services delivered and the effect of the care, treatment or services on the patient.

"Quality improvement" means ongoing activities designed to objectively and systematically evaluate the quality of care and services, pursue opportunities to improve care and services, and resolve identified problems. Quality improvement is an approach to the ongoing study and improvement of the processes of providing services to meet the needs of patients and their families.

"Staff" means an employee who receives financial [remuneration compensation].

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular face-to-face guidance and instruction.

"Terminally ill" means a medical prognosis that life expectancy is six months or less if the illness runs its usual course.

"The Center" means the Center for Quality Health Care Services and Consumer Protection of the Virginia Department of Health.

"Volunteer" means an employee who receives no financial [remuneration compensation].

## **12 VAC 5-391-20. [~~Responsibility of the department Reserved~~].**

~~A. The Virginia Department of Health, pursuant to Article 7 (§ 32.1-162.1 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, is charged with the responsibility for ensuring that hospice programs provide patient care according to the requirements specified by the Code and the regulations adopted by the Board of Health.~~

~~B. The center acts as agent for the department in administering the hospice licensing program, which includes investigating complaints made against hospice programs.~~

~~C. Section 32.1-162.5 of the Code of Virginia requires the Board of Health to adopt standards and regulations for the licensure of hospice programs. The department is the authorized agent for the board.~~

~~D. In developing or revising licensing regulations for hospice programs, the department adheres to the requirements of the Administrative Process Act (Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia) and the public participation process. The department solicits input from providers, industry associations, experts in related fields, advocacy programs, consumers and the general public in the development or revision of state licensing regulations through informal and formal comment periods and may hold public hearings as appropriate. ]~~

## **12 VAC 5-391-30. License.**

A. A license to operate a hospice program is issued to a person.

B. The State Health Commissioner shall issue or renew a license to establish or operate a hospice program if the commissioner finds that the hospice program is in compliance with the law and this chapter.

C. A separate license shall be required for hospice programs maintained at separate locations, even though they are owned or are operated under the same management.

D. Every hospice program shall be designated by an appropriate name. The name shall not be changed without first notifying the center.

E. Licenses shall not be transferred or assigned.

F. Any person establishing, conducting, maintaining, or operating a hospice program without a license shall be guilty of a Class 1 misdemeanor according to § 32.1-27 of the Code of Virginia.

## **12 VAC 5-391-40. Exemption from licensure.**

A. According to § 32.1-162.2 of the Code of Virginia, this chapter is not applicable to a hospice established or operated for the practice of religious tenets of any recognized church or denomination that provides care and treatment for the sick by spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation. Such a hospice shall comply with the statutes and regulations governing environmental protection and life safety.

B. The hospice program must file a request for exemption from licensure in writing to the Director of the Center for Quality Health Care Services and Consumer Protection. The request shall contain documentation explaining the hospice program's relationship to the practice of religious tenets of a recognized church or denomination.

C. The hospice program shall be notified in writing that the exemption from licensure has been registered.

D. Exempt hospice programs shall remain subject to complaint investigations in keeping with state law.

## **12 VAC 5-391-50. License application; initial and renewal.**

A. The center will provide precensure consultation and technical assistance to any person regarding the licensure process. The purpose of such consultation is to explain the regulation and to review an applicant's proposed hospice program plans, forms, and other documents, as they relate to

the regulation. Prelicensure consultations can be arranged after an initial application has been filed.

B. Licensure applications are obtained from the center. The center shall consider an application complete when all requested information and the appropriate fee, stated in 12 VAC 5-391-70, are submitted. If the center finds the application incomplete, the applicant will be notified in writing of the incomplete application.

An incomplete application shall become inactive six months after it is received by the center. Applicants must reapply for licensure with a completed application and application fee. An application for a license may be withdrawn at any time.

C. A completed application for initial licensure must be submitted at least 60 days prior to the [ ~~organization's~~ hospice program's ] planned opening date to allow the center time to act on the application.

D. The activities and services of each applicant or licensee of a hospice license shall be subject to an inspection by the center to determine if the hospice program is in compliance with the provisions of this chapter and state law. Hospice programs submitting an initial application shall receive an announced inspection prior to accepting patients.

E. Licenses are renewed annually. The center shall [ ~~send a~~ make ] renewal [ ~~application~~ applications available ] at least 60 days prior to the expiration date of the current license.

F. The hospice program shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter. Providers operating dedicated hospice facilities shall include a copy of the facility deficiency report and plan of correction from their latest facility licensure inspection when applying to renew their hospice program license.

G. It is the hospice program's responsibility to complete and return the renewal application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided a complete and accurate application was filed on time.

H. Providers operating a dedicated hospice facility shall maintain compliance with the applicable licensure regulations described in 12 VAC 5-391-120. Failure to maintain compliance may be taken into consideration in the center's decision to renew a hospice program license.

## **12 VAC 5-391-60. Changes to or reissuance of a license.**

A. It is the responsibility of the hospice program's governing body to maintain a current and accurate license, including appropriate facility licensure if the hospice program operates a dedicated hospice facility.

B. A hospice program shall give written notification 30 working days in advance of any proposed changes that may require the reissuance of the license. Notices shall be sent to the attention of the Director of the Center for Quality Health Care Services and Consumer Protection.

The following circumstances require the reissuance of a license and payment of a fee:

1. A change in ownership or operator;
2. A change in hospice program name; or
3. Relocation of the hospice program's administrative office.

C. The center will evaluate written information about any planned changes in operation that affect the terms of the license or the continuing eligibility for a license. A licensing representative may inspect the hospice program during the process of evaluating a proposed change.

D. The hospice program will be notified in writing whether a license can be reissued or a new application is needed.

## **12 VAC 5-391-70. Fees.**

A. The center shall collect a fee of \$500 for each initial and renewal license. Fees shall accompany the licensure application and are not refundable.

B. A processing fee of \$250 shall be collected for each reissuance or replacement of a license and shall accompany the written request for reissuance or replacement.

C. In addition, a late fee of \$50 shall be collected for a hospice program's failure to file a renewal application by the date specified.

## **12 VAC 5-391-80. On-site inspections.**

A. A center representative shall make [periodic] unannounced on-site inspections of the hospice program [ as necessary, but not less often than biennially ]. The hospice program shall be responsible for correcting any deficiencies found during any on-site inspection, including deficiencies found during announced initial inspections. Compliance with all standards will be determined by the center [ according to applicable law ]. The administrator will be notified whenever any item in the plan of correction is determined to be unacceptable.

B. The hospice program shall make available to the center representative any necessary records and shall allow access to interview the agents, employees, contractors, and any person under its control, direction or supervision.

C. After the on-site inspection, the center representative shall discuss the findings of the inspection with the administrator or designee.

D. The administrator shall submit, within 15 working days from the date of the deficiency report, an acceptable plan for correcting any deficiencies found during an on-site inspection. The plan of correction shall contain:

1. A description of the corrective action or actions to be taken and the personnel to implement and monitor the corrective action;
2. The expected correction date;
3. A description of the measures implemented to prevent a recurrence of the violation; and
4. The signature of the hospice program's administrator.

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E. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

F. Completion of corrective actions shall not exceed 45 working days from the last day of the inspection.

## **12 VAC 5-391-90. Home visits.**

A. As part of any inspection, a center representative may conduct home visits [ subject to obtaining consent from the patient and the patient's family or caretaker ].

B. The hospice program shall be responsible for arranging in-home visits with patients, family members, and caregivers for the center representative.

C. The hospice program shall explain clearly to the patient, patient's family or caretaker, that a home visit is voluntary and that refusal to consent to a home visit will in no way affect the patient's care.

## **12 VAC 5-391-100. Complaint investigation.**

A. The center has the responsibility to investigate any complaints regarding alleged violations of this chapter and applicable law.

B. Complaints may be received in written or oral form and may be anonymous.

C. When the investigation is complete, the licensee and the complainant, if known, will be notified in writing of the findings of the investigation.

D. The administrator shall submit an acceptable plan for correcting any deficiencies found during a complaint investigation.

E. The administrator will be notified in writing whenever any aspect of the plan of correction is determined to be unacceptable.

F. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

## **12 VAC 5-391-110. Criminal records checks.**

A. Section 32.1-162.9:1 of the Code of Virginia requires hospice providers, as defined in § 32.1-162.1 of the Code of Virginia, to obtain a criminal record report on applicants for compensated employment from the Virginia Department of State Police. Section 32.1-162.9:1 also requires that all applicants for compensated employment in a hospice program provide a sworn statement regarding their criminal history.

B. The criminal record report shall be obtained within 30 days of compensated employment. It is the hospice program's responsibility to ensure that its compensated employees have not been convicted of any of the barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia.

C. The hospice program shall not accept a criminal record report dated more than 90 days prior to the date of compensated employment.

D. Only the original criminal record report shall be accepted. An exception is permitted for hospice programs using temporary staffing agencies for the provision of substitute staff. The hospice program shall obtain a letter from the temporary staffing agency containing the following information:

1. The name of the substitute staffing person;
2. The date of employment by the temporary staffing agency; and
3. A statement verifying that the criminal record report has been obtained within 30 days of employment, is on file at the temporary staffing agency, and does not contain any barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia.

E. A criminal record report remains valid as long as the compensated employee remains in continuous service with the same hospice program.

F. A new criminal record report shall be required when an individual terminates compensated employment at one hospice program and begins compensated employment at another hospice program. The following exceptions are permitted:

1. When an employee transfers, within 30 days, to a hospice program owned and operated by the same entity. The employee's file shall contain a statement indicating that the original criminal record report has been transferred or forwarded to the new work location.
2. A criminal record report for an individual who takes a leave of absence will remain valid as long as the period of separation does not exceed six consecutive months. If a period of six consecutive months has passed, a new criminal record report and sworn disclosure statement are required.

G. The sworn disclosure statement shall be completed by all applicants for compensated employment. The sworn disclosure statement shall be attached to and filed with the criminal record report.

H. Any applicant denied compensated employment because of convictions appearing on his criminal record report shall be provided a copy of the report by the hiring hospice program.

I. All criminal records reports shall be confidential and maintained in locked files accessible only to the administrator or designee.

J. Further dissemination of the criminal record report and sworn disclosure statement information is prohibited other than to the commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

## **12 VAC 5-391-120. Dedicated hospice facilities.**

A. Providers seeking to operate a dedicated hospice facility shall comply with the appropriate facility licensing regulation as follows:

1. Up to five patient beds, facilities shall be licensed as:

- a. An assisted living facility pursuant to [ ~~22 VAC 40-71-40~~ 22 VAC 40-71 ];
  - b. A hospital pursuant to 12 VAC 5-410; or
  - c. A nursing facility pursuant to 12 VAC 5-371; or
2. Six or more patient beds, facilities shall be licensed as [ : ]
- a. An assisted living facility, pursuant to 22 VAC 40-71 with a classified Use Group of I-2;
  - b. A hospital pursuant to 12 VAC 5-410; or
  - c. A nursing facility pursuant to 12 VAC 5-371.

Facilities to be licensed as a hospital or a nursing facility shall obtain the applicable Certificate of Public Need (COPN).

B. Only patients diagnosed terminally ill shall be admitted to a dedicated hospice facility. The facility shall admit only those patients whose needs can be met by the accommodations and services provided by the facility.

C. Admission to a dedicated hospice facility shall be the decision of the patient in consultation with the patient's physician. No patient shall be admitted to a hospice facility at the discretion of, or for the convenience of, the hospice provider.

D. No [dedicated] hospice facility shall receive for care, treatment, or services patients in excess of the licensed bed capacity. However, facilities licensed as a nursing facility may provide temporary shelter for evacuees displaced due to a disaster. In those cases, the facility may exceed the licensed capacity for the duration of that emergency only provided the health, safety, and well being of all patients is not compromised and the center is notified.

E. No [dedicated] hospice facility provider shall add additional patient beds or renovate facility space without first notifying the center and the applicable facility licensing authority. Center notifications must be in writing to the Director of the Center for Quality Health Care Services and Consumer Protection.

F. The center will not accept any requests for variances to this section.

### **12 VAC 5-391-130. Variances.**

A. The center can authorize variances only to its own licensing regulations, not to regulations of another agency or to any requirements in federal, state, or local laws.

B. A hospice program may request a variance to a particular regulation or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of patients. The request for a variance must describe the special hardship to the hospice program and to the patients it serves. When applicable, the request should include proposed alternatives to meet the purpose of the requirements that will ensure the protection and well-being of patients. At no time shall a variance approved for one individual be extended to general applicability. If a variance is denied, expires, or is rescinded, routine enforcement of the regulation or portion of

the regulation shall be resumed. The hospice program may at any time withdraw a request for a variance.

C. The center shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these regulations provided safety, patient care and services are not adversely affected. The center may attach conditions to the granting of the variance in order to protect persons in care.

D. The center may rescind or modify a variance when (i) conditions change; (ii) additional information becomes known that alters the basis for the original decision; (iii) the hospice program fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the safety, comfort, or well-being of persons in care.

E. Consideration of a variance is initiated when a written request is submitted to the Director of the Center for Quality Health Care Services and Consumer Protection. The center shall notify the hospice program in writing of the receipt of the request for a variance.

F. [ ~~When the decision is to deny a variance,~~ ] The licensee shall be notified in writing [ if the requested variance is denied ].

G. The hospice program shall develop procedures for monitoring the implementation of any approved variance to assure the ongoing collection of any data relevant to the variance and the presentation of any later report concerning the variance as requested by the center.

### **12 VAC 5-391-140. Revocation or suspension of a license.**

A. The commissioner is authorized to revoke or suspend any license if the licensee fails to comply with the provisions of Article 7 (§ 32.1-162.1 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia or the regulations of the board.

Providers operating a dedicated hospice facility shall also maintain compliance with the applicable licensure regulations as described in 12 VAC 5-391-120. Failure to maintain compliance may be taken into consideration when the commissioner decides to revoke or suspend a hospice program license.

B. If a license is revoked, the commissioner may issue a new license when the conditions upon which revocation was based have been corrected and compliance with all provisions of the law and this chapter has been achieved.

C. Suspension of a license shall in all cases be for an indefinite time. The suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines that the interests of the public will not be jeopardized by resumption of services.

D. When a license is revoked or suspended, the hospice program shall cease operations. If the hospice program continues operating, the commissioner may request the Office of the Attorney General to petition the circuit court of the jurisdiction in which the hospice program is located for an injunction to cause such hospice program to cease operations.

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## **12 VAC 5-391-150. [ ~~Surrender~~ Return ] of a license.**

A. The circumstances under which a license must be [ ~~surrendered~~ returned ] include, but are not limited to (i) change in ownership or operator, (ii) change in hospice program name, (iii) relocation of the administrative office, (iv) discontinuation of any core services, and (v) establishment of a dedicated hospice facility.

B. The licensee shall notify its patients and the center in writing 30 days prior to discontinuing any services.

C. If the hospice program is no longer operational, or the license is revoked or suspended, the license shall be returned to the center within five working days. The licensee is responsible for notifying its patients and the center where all medical records will be located.

### PART II. ADMINISTRATIVE SERVICES.

## **12 VAC 5-391-160. Management and administration.**

A. No person shall establish or operate a hospice program, as defined in § 32.1-162.1 of the Code of Virginia, without having obtained a license.

B. The hospice program must comply with:

1. This chapter (12 VAC 5-391);
2. Other applicable federal, state or local laws and regulations; and
3. The hospice program's own policies and procedures.

When applicable regulations are similar, the more stringent regulation shall take precedence.

C. The hospice program shall submit or make available reports and information necessary to establish compliance with this chapter and applicable law.

D. The hospice program shall permit representatives from the center to conduct inspections to:

1. Verify application information;
2. Determine compliance with this chapter;
3. Review necessary records and documents; and
4. Investigate complaints.

E. The hospice program shall notify the center 30 working days in advance of changes effecting the hospice program, including the:

1. Location of the administrative office or mailing address of the hospice program;
2. Ownership or operator;
3. Services provided;
4. Administrator;
5. Hospice program name;
6. Establishment of a dedicated hospice facility; and
7. Closure of the hospice program.

F. The current license from the department shall be posted for public inspection.

G. Service providers or individuals under contract must comply with the hospice program's policies and this chapter, as appropriate.

H. The hospice program shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services.

I. The hospice program shall have regular posted business hours and be fully operational during business hours. Patient care services shall be available 24 hours a day, seven days a week. [ This does not mean that a hospice program must accept new clients on an emergency basis during nonbusiness hours. ]

J. The hospice program shall accept a patient only when the hospice program can adequately meet that patient's needs [ ~~in the patient's residence~~ ].

K. The hospice program must have an emergency preparedness plan in case of inclement weather or natural disaster to include contacting and providing essential care to patients, coordinating with community agencies to assist as needed, and maintaining current information on patients who would require specialized assistance.

## **12 VAC 5-391-170. Governing body.**

A. The hospice program shall have a governing body that is legally responsible for the management, operation and fiscal affairs of the hospice program. The governing body of the hospital, nursing facility or home health agency that operates a hospice shall include in its internal organizational structure an identifiable unit of hospice services.

B. The governing body shall adopt written by-laws describing the hospice program structure, including the:

1. Hospice program's objectives;
2. Scope of services;
3. Relationship of the hospice program's services to other services operated by the governing body, if applicable, or by written agreement with the governing body of an affiliated medical service provider; and
4. Establishment of a quality improvement committee.

At least every two years, the governing body shall review and approve necessary changes to the program's by-laws.

C. The governing body shall review annually and approve the recommendations of the quality improvement committee [ ~~when appropriate~~ ].

## **12 VAC 5-391-180. Administrator.**

A. The governing body shall appoint as administrator an individual who has evidence of at least one year of training and experience in direct health care service delivery with at least one year, within the last five years, of supervisory or administration management experience in hospice care or a related health care delivery system.

B. The administrator shall be responsible for the day-to-day management of the hospice program, including but not limited to:

1. Organizing and supervising the administrative functions of the hospice program;
2. Maintaining an on-going liaison with the governing body, the professional personnel and staff;
3. Employing qualified personnel and ensuring adequate employee orientation, training, education and evaluation;
4. Ensuring the accuracy of public information materials and activities;
5. Implementing an effective budgeting and accounting system;
6. Maintaining compliance with applicable laws and regulations and implementing corrective action in response to reports of hospice program committees and regulatory agencies;
7. Arranging and negotiating services provided through contractual agreement; and
8. Implementing the policies and procedures approved by the governing body.

C. An individual who meets the qualifications of subsection A of this section shall be designated in writing to perform the duties of the administrator when the administrator is absent from the hospice program.

Hospice programs shall have one year from the effective date of this chapter to ensure that the individuals currently designated meet the qualifications of subsection A of this section.

D. The administrator or alternate shall be available at all times during operating hours and for emergency situations.

## **12 VAC 5-391-190. Written policies and procedures.**

A. The hospice program shall implement written policies and procedures approved by the governing body.

B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval, as necessary.

C. Administrative and operational policies and procedures shall include, but are not limited to:

1. Administrative records;
2. Admission and discharge criteria;
3. Informed consent;
4. Advance directives, including Durable Do Not Resuscitate Orders;
5. Patient rights;
6. Pain assessment and management;
7. Medical supplies and appliances including drugs and biologicals, disposal of controlled drugs when no longer

needed by patients, and handling of medications procured from a pharmacy of the patient's choice;

8. Contract services;
9. Transfer of patients to an inpatient facility including arrangements for an ambulance and the patient escort, when appropriate, to the facility by a professional staff member of the hospice program;
10. Medical social services;
11. Quality improvement;
12. Communicable and reportable diseases;
13. Post-mortem activities;
14. Mandated reporting of abuse, neglect, and exploitation pursuant to § [~~63.2-106~~ 63.2-1606] of the Code of Virginia;
15. Medical records, including confidentiality;
16. Record retention, including termination of services;
17. Supervision and delivery of services;
18. Interdisciplinary group duties and responsibilities;
19. Bereavement and spiritual services;
20. Volunteer services;
21. Infection control;
22. Special services;
23. Emergency preparedness;
24. Handling consumer complaints; and
25. Approved variances.

D. Financial policies and procedures shall include, but are not limited to:

1. Admission agreements;
2. Data collection and verification of services delivered;
3. Methods of billing for services by the hospice program and contractors;
4. Patient notification of changes in fees and charges;
5. Refund policy and correction of billing errors; and
6. Collection of delinquent patient accounts.

E. Personnel policies and procedures shall include, but are not limited to, a:

1. Written job description specifying responsibility, qualifications, and authority for each job classification;
2. Process for obtaining a criminal background check;
3. Process for maintaining an accurate, complete and current personnel record for each employee;
4. Process for verifying current professional credentials and training of employees, or independent contractors;

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5. Process for annually evaluating employee performance and competency;

6. Process for verifying that contractors and their employees meet the personnel qualifications of the hospice program; and

7. Process for reporting licensed and certified medical personnel for violations of the licensing or certification to the appropriate Board within the Department of Health Professions.

F. Admission and discharge policies and procedures shall include, but are not limited to:

1. Criteria for accepting patients;

2. The process for assessing a patient and maintaining a plan of care;

3. Criteria for determining discharge from hospice and referral to other agencies or community services; and

4. Process for notifying patients of intent to discharge or refer, including:

a. Oral and written notice and explanation of the reason for discharge or referral;

b. The name, address, telephone number and contact name at the referral hospice program; and

c. Documentation in the medical record of the referral or notice.

G. Policies shall be made available for review, upon request, to patients and their designated representatives.

H. Policies and procedures shall be readily available for staff use at all times.

## **12 VAC 5-391-200. Financial controls.**

A. The hospice program shall document financial resources to operate based on a working budget showing projected revenue and expenses.

Hospice programs operating dedicated hospice facilities shall have financial resources to operate based on a [ separate ] working budget showing projected revenue and expenses.

B. All financial records shall be kept according to generally accepted accounting principles (GAAP).

C. All financial records shall be audited at least triennially by an independent certified public accountant or audited as otherwise provided by law.

D. The hospice program shall have documented financial controls to minimize risk of theft or embezzlement.

## **12 VAC 5-391-210. Personnel practices.**

A. Personnel management and employment practices shall comply with applicable state and federal laws and regulations.

B. The hospice program shall design and implement a staffing plan that reflects the types of services offered and shall provide qualified staff in sufficient numbers to meet the

assessed needs of all patients, including those patients residing in the provider's hospice facility, if applicable.

C. Employees and contractors shall be licensed or certified as required by the Department of Health Professions.

D. The hospice program shall implement a mechanism to verify professional credentials.

E. Any person who assumes the responsibilities of any staff position or positions shall meet the minimum qualifications for that position or positions. Professional staff may be assigned multiple job responsibilities provided the individual is appropriately qualified.

F. The hospice program shall obtain the required sworn statement and criminal record check for each compensated employee as specified in § 32.1-162.9:1 of the Code of Virginia.

G. Each employee position shall have a written job description that includes:

1. Job title;

2. Duties and responsibilities required of the position;

3. Job title of the immediate supervisor; and

4. Minimum knowledge, skills, and abilities or professional qualifications required for entry level.

H. Employees shall have access to their current position description. There shall be a mechanism for advising employees of changes to their job responsibilities.

I. New employees and contract individuals shall be oriented commensurate with their function or job-specific responsibilities. Orientation shall include:

1. Objectives and philosophy of the hospice program;

2. Confidentiality practices;

3. Patient rights;

4. Mandated reporting of abuse, neglect and exploitation;

5. Applicable personnel policies;

6. Emergency preparedness procedures;

7. Infection control practices and measures; and

8. Applicable laws, regulations, and other policies and procedures that apply to specific positions and specific duties and responsibilities.

J. The hospice program shall implement a policy for evaluating employee performance.

K. Individual staff development needs and plans shall be a part of the performance evaluation.

L. The hospice program shall provide opportunities for and record participation in staff development activities designed to enable staff to perform the responsibilities of their positions.

M. All individuals who enter a patient's home for or on behalf of the hospice program shall be readily identifiable by employee nametag.



N. The hospice program shall maintain an organized system to manage and protect the confidentiality of personnel files and records.

O. Employee personnel records, whether hard-copy or electronic, shall include:

1. Identifying information;
2. Education and training history;
3. Employment history;
4. Results of the verification of applicable professional licenses or certificates;
5. Results of reasonable efforts to secure job-related references and reasonable verification of employment history;
6. Results of performance evaluations;
7. A record of disciplinary actions taken by the hospice program, if any;
8. A record of adverse action by any licensing bodies and hospice programs, if any;
9. A record of participation in staff development activities, including orientation;
10. The criminal record check; and
11. A signed job description.

P. Each employee personnel record shall be retained in its entirety for a minimum of three years after termination of employment.

Q. Personnel record information shall be safeguarded against loss and unauthorized use.

R. Employee health-related information shall be maintained separately within the hospice program's personnel files, but may be maintained in a separate secure section for confidentiality.

#### **12 VAC 5-391-220. Indemnity coverage.**

A. The governing body shall ensure the hospice program and its contractors have appropriate indemnity coverage to compensate patients for injuries and losses resulting from services provided.

B. To protect the interests of patients, employees, and the hospice program from risks of liability, there shall be indemnity coverage to include:

1. General liability insurance covering personal property damages, bodily injuries, product liability, libel and slander of at least \$1 million comprehensive general liability per occurrence; and
2. [Blanket] Malpractice insurance for all nursing and medical professional employees consistent with § 8.01-581.15 of the Code of Virginia.

#### **12 VAC 5-391-230. Contract services.**

A. If the hospice program contracts for services, there shall be a written agreement for the provision of those services.

B. The written agreement shall include, but is not limited to:

1. The services to be furnished by each party to the contract;
2. The contractor's responsibility for participating in developing plans of care;
3. The manner in which services will be controlled, coordinated, and evaluated by the hospice program;
4. The procedures for submitting clinical and progress notes, scheduling of visits, and periodic patient evaluation;
5. The process for payment for services furnished under the contract; and
6. Adequate indemnity coverage.

C. The hospice program shall have procedures for providing patient services in the event the contractor is unable to comply with the plan of care.

D. The contractor shall conform to applicable hospice program policies and procedures as specified in the contract, including the required sworn statement and criminal record check.

#### **12 VAC 5-391-240. Patient rights.**

A. The hospice program shall establish and implement written policies and procedures regarding the rights of patients. A copy of the patient's rights shall be displayed in the hospice office for public review.

B. Written procedures to implement the policies shall ensure that each patient is:

1. Treated with courtesy, consideration and respect;
2. Assured the right to privacy;
3. Assured confidential treatment of his medical and financial records as provided by law;
4. Free from mental and physical abuse and property exploitation;
5. Assured the right to participate in the planning of his care, including appropriate assessment and management of pain and the right to refuse services;
6. Served by individuals who are properly trained and competent to perform their duties;
7. Assured the right to voice grievances and complaints related to hospice program services without fear of reprisal;
8. Advised, before care is initiated, of the extent to which payment for services may be expected from federal or state [ hospice ] programs, and the extent to which payment may be required from the patient;
9. Advised orally and in writing of any changes in fees for services that are the patient's responsibility. The hospice program shall advise the patient of these changes as soon as possible but no later than 30 calendar days from the date the hospice program became aware of the change;
10. Provided with advance directive and Durable Do Not Resuscitate Order information prior to start of services; and

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11. Given five days oral and written notice when the hospice program determines to terminate services.

C. At the time of admission, patient rights shall be reviewed with patients and primary caregivers who shall receive a written summary of the policies. The review shall be documented in the patient's record.

D. Before care is initiated, the hospice program shall inform the patient, orally and in writing, of the general nature of hospice care and policies of the hospice program, including, but not limited to:

1. The type and frequency of service or services to be delivered, the purpose of the service or services, and the name of the individual supervising the service or services;
2. Any anticipated effects of treatment, as applicable;
3. A schedule of charges for services;
4. The method of billing and payment for services, including the:
  - a. Services to be billed to third party payers;
  - b. Extent to which payment may be expected from third party payers known to the hospice program; and
  - c. Services that may not be covered by third party payers;
5. The charges that the individual may have to pay;
6. The requirements of notice for cancellation or reduction in services by the hospice program and the patient; and
7. The refund policies of the hospice program.

## 12 VAC 5-391-250. Complaints.

A. The hospice program shall establish and maintain complaint handling procedures that specify the:

1. System for logging receipt, investigation and resolution of complaints;
2. Format of the written record;
3. Method in which the [ adult protective services unit of the ] local social services department [ ~~Adult Protective Services unit~~ ] is to be informed and for what complaints; and
4. Description of the appeal rights if a complainant is not satisfied with the resolution.

B. The hospice program shall designate staff responsible for complaint resolution, including:

1. Complaint intake, including acknowledgment of complaints;
2. Investigation of the complaint;
3. Review of the investigation of findings and resolution of the complaint; and
4. Written notification to the complainant of the proposed resolution within 30 days from the date of receipt of the complaint.

C. The patient or his designee shall be given a copy of the hospice program's procedures for filing a complaint at the time of admission to service. The hospice program shall provide each patient or his designee with the name, mailing address, and telephone number of the:

1. Hospice program contact person;
2. State Ombudsman; and
3. Center for Quality Health Care Services and Consumer Protection.

D. The hospice program shall maintain documentation of all complaints received and the status of each complaint from date of receipt through its final resolution. Records shall be maintained from the date of the last licensure inspection and for no less than three years.

## 12 VAC 5-391-260. Quality improvement.

A. The hospice program shall implement an on-going, comprehensive, integrated, self-assessment program of the quality and appropriateness of care provided, including services provided under contract. The quality improvement program shall address actual patient outcomes (results of care), clinical, administrative, and cost-of-care issues. The findings shall be used to correct identified problems and revise policies and practices, as necessary. Exclusive concentration on administrative or cost-of-care issues does not fulfill this requirement.

B. The following areas shall be evaluated to identify unacceptable or unexpected trends or occurrences that influence patient outcomes (results of care):

1. Staffing patterns and clinical performance;
2. Admissions and discharges;
3. Supervision appropriate to the level of service;
4. Emergency preparedness plan;
5. Medical records;
6. Appropriateness and effectiveness of pain management;
7. Patient satisfaction and complaint resolution;
8. Infection control;
9. Staff concerns; and
10. Provision of services appropriate to patient needs.

C. The administrator or governing body shall designate a quality improvement committee, which is responsible for the oversight and supervision of the quality improvement program. The committee shall consist of:

1. A physician with association with the hospice program;
2. A member of the administrative staff;
3. Representatives of each of the services provided by the hospice program, including contracted services; and
4. An individual with demonstrated ability to represent the rights and concerns of patients. The individual may be a

member of the hospice program's staff, a patient, or a patient's family member.

In selecting members of this committee, consideration shall be given to a candidate's abilities and sensitivity to issues relating to [ confidentiality, ] quality of care and services provided to hospice patients.

D. Measures shall be implemented to resolve important problems or concerns that have been identified. Health care practitioners, as well as administrative staff, shall participate in the resolution of the problems or concerns that are identified.

E. Results of the quality improvement program shall be reported annually in writing to the governing body and the administrator, and to the staff as appropriate. The report shall be acted upon by the governing body and the hospice program. All corrective actions shall be documented.

## **12 VAC 5-391-270. Infection control.**

A. The hospice program shall implement a program to reduce the risk of infection.

B. Infection control activities shall include, but are not limited to:

1. Staff, patient, patient family or caregiver education regarding infection risk-reduction behaviors;
2. Use of universal precautions;
3. Handling, storing, processing and transporting of regulated medical waste according to applicable procedures;
4. Handling, storing, processing and transporting supplies and equipment in a manner that prevents the spread of infection; and
5. Monitoring of staff performance of infection control practices.

C. Accumulated waste, including all contaminated sharps, dressings, or similar infectious waste, shall be disposed of in a manner compliant with the OSHA Bloodborne Pathogens standard (29 CFR 1910.1030).

D. Dedicated hospice facilities shall have provisions for isolating patients with infectious diseases.

## **12 VAC 5-391-280. Medical record system.**

A. The hospice program shall maintain an organized medical record system according to accepted standards of practice. Written policies and procedures shall specify retention, reproduction, access, storage, content, and completion of the record.

B. Medical record information shall be safeguarded against loss or unauthorized use.

C. Medical records shall be confidential. Only authorized personnel shall have access as specified in state and federal law.

D. Provisions shall be made for the safe storage of the original record and for accurate and legible reproductions of the original.

E. Policies shall specify arrangements for retention and protection of records if the hospice program discontinues operation and shall provide for notification to the center and the patient of the location of the records.

F. An accurate and complete medical record shall be maintained for each patient receiving services and shall include, but shall not be limited to:

1. Patient identifying information;
2. Identification of the attending physician;
3. Admitting information, including a patient history;
4. A psychosocial and spiritual assessment, including information regarding composition of the household, safety issues in the physical environment, coping skills of the family and the patient, and identification of the individuals to be instructed in the care of the patient;
5. Physical assessment;
6. Documentation and results of all medical tests ordered by the physician or other health care professionals and performed by the hospice program's staff;
7. Physician's orders;
8. The plan of care including, but not limited to, the type and frequency of each service to be delivered by hospice program or contract service personnel and appropriate assessment and management of pain;
9. Medication sheets that include the name, dosage, frequency of administration, route of administration, date started, changed or discontinued for each medication, and possible side effects;
10. Copies of all summary reports sent to the attending physician;
11. Documentation of patient rights review;
12. Services provided, including any volunteer services; and
13. A discharge summary that includes continuing symptom management needs.

G. Signed and dated progress notes by each individual delivering service shall be written on the day the service is delivered and incorporated in the medical record within seven working days.

H. All services provided to the patient by the hospice program shall be documented in the patient's medical record.

I. Entries in the medical record shall be current, legible, dated and authenticated by the person making the entry. Errors shall be corrected by striking through and initialing.

J. Verbal orders shall be [ immediately ] documented [ within 24 hours ] in the medical record by the health care professional receiving the order and shall be countersigned by the health professional initiating the order according to the procedures of the hospice program.

K. Originals or reproductions of individual patient medical records shall be maintained in their entirety for a minimum of

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five years following discharge or date of last contact unless otherwise specified by state or federal requirements. Records of minors shall be kept for at least five years after the minor reaches 18 years of age.

## **12 VAC 5-391-290. Discharge.**

A. Patients shall receive five days oral and written notice of a transfer or discharge initiated by the hospice program except under the following circumstances:

1. When a medical emergency exists;
2. For the welfare of the patient or the welfare of employees; or
3. The welfare of other patients in a dedicated hospice facility operated by the hospice program.

B. The hospice program shall make all arrangements necessary to assure continuing care and services including a discharge summary for the receiving hospice or provider.

### **PART III. HOSPICE PROGRAM SERVICES.**

#### **Article 1. Hospice Services.**

## **12 VAC 5-391-300. Hospice services.**

A. Each hospice shall provide a coordinated program of services encompassing the hospice philosophy that:

1. The unit of care consists of the patient, the primary caregiver, and the patient's family;
2. Emphasizes in-home care;
3. A designated interdisciplinary group supervises the patient's care;
4. A patient's physical pain will be appropriately assessed and managed;
5. Services are available 24 hours a day, 7 days a week;
6. Inpatient care is provided in an atmosphere as home-like as practical;
7. Bereavement services are available to the family after the death of the patient; and
8. Trained volunteers are utilized to perform specific job functions in the hospice service delivery system.

B. Specific services provided according to the plan of care shall include:

1. Nursing services;
2. ~~[ Spiritual support or ]~~ Counseling services;
- ~~[ 3. Bereavement support; ]~~
- ~~[ 4. 3. ]~~ Medical social services;
- ~~[ 5. 4. ]~~ Physician services;
- ~~[ 6. 5. ]~~ Physical therapy, occupational therapy, speech-language pathology;

~~[ 7. 6. ]~~ Home attendant services;

~~[ 8. 7. ]~~ Short-term inpatient care; [ and ]

~~[ 9. Dietary or nutritional counseling; ]~~

~~[ 10. 8. ]~~ Medical appliances and supplies, including drugs and biologicals, relevant to the patient's terminal illness.

C. Inpatient services shall be provided in a licensed hospital or nursing facility.

D. There shall be written agreement with an inpatient facility for the transfer of patients if medical complications arise. Such agreement shall include, but is not limited to, interagency communication processes and coordination of the patient's plan of care, and shall clearly identify the services to be provided by the facility and the hospice while the patient is at the inpatient facility.

E. All prescription drugs shall be prescribed and properly dispensed to patients according to the provisions of [ ~~Chapter~~ Chapters ] 33 [ (§ 54.1-3300 et seq.) ] and 34 [ (§ 54.1-3400 et seq.) ] of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for the prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushed for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.

## **12 VAC 5-391-310. Interdisciplinary group or IDG.**

A. The hospice program shall designate an interdisciplinary group or groups to provide or supervise the care and services offered by the hospice program. The IDG shall consist of:

1. The patient, the patient's primary caregiver, and patient's family;
2. The attending physician;
3. The medical director;
4. A registered nurse;
5. The social worker;
6. The pastoral or other counselor; and
7. Volunteers, if applicable.

B. The IDG shall:

1. Establish a coordinated plan of care for the services, supplies and medical appliances required for each patient;
2. Provide or supervise the care and services delivered; and
3. Periodically reassess each patient and update the patient's plan of care, as needed.

C. The IDG shall establish policies governing the day-to-day provision of the care and services. If the hospice program utilizes multiple IDGs, one IDG shall be designated in advance as responsible for establishing those policies.

## **12 VAC 5-391-320. Plan of care.**

A. At the time of a patient's admission to the hospice program, the IDG shall develop and maintain a plan of care, including but not limited to:

1. Identification of the primary caregiver, or an alternative in the absence of a primary caregiver, to ensure the patient's needs will be met;
2. The patient's diagnosis and prognosis;
3. Assessment of the patient's family medical, physical, psychosocial, spiritual and bereavement needs, identification of the services required to meet those needs and plans for providing the services through the IDG, contractual providers, and community resources;
4. A comprehensive assessment of pain, as warranted by the patient's condition and the scope of services provided by the hospice program;
5. Services to be provided, including (i) specific procedures, (ii) treatment modalities, and (iii) frequency and duration of the services ordered;
6. Special dietary or nutritional needs, when applicable;
7. Medical equipment, supplies, medications, and specialized therapies when applicable;
8. Identification of the members of the staff designated to carry out the plan of care; and
9. Physician orders, including any orders to change the plan when appropriate.

B. Services shall be provided according to the patient's plan of care. The plan of care shall be updated at intervals determined by the IDG and specified in the plan.

C. The plan of care shall be reviewed, approved and signed by the patient's attending physician or the hospice program's medical director after consultation with the patient's attending physician.

D. The attending physician shall be notified immediately of any changes in the patient's condition that indicates a need to alter the plan of care.

## **12 VAC 5-391-330. Medical direction.**

A. There shall be a medical director, who shall be a physician licensed by the Virginia Board of Medicine, responsible for the overall direction and management of the medical component of care. The individual shall have training and experience in the psychological and medical needs of the terminally ill.

B. The medical director shall have [clinical admitting] privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients.

C. The duties and responsibilities of the medical director shall include at least the following:

1. Consulting with attending physicians regarding pain and symptom management;

2. Reviewing patient eligibility for hospice services according to the law and the hospice program's admission policies;

3. Acting as a medical resource to the IDG;

4. Coordinating with attending physicians to assure a continuum of medical care in cases of emergency or in the event the attending physician is unable to retain responsibility for the patient's care;

5. Acting as medical liaison with physicians in the community; and

6. Determining, in consultation with the patient's physician, when a patient can no longer remain at home and should be moved to a congregate living facility of the patient's choosing.

## **12 VAC 5-391-340. Nursing services.**

A. All nursing services shall be provided directly or under the supervision of a registered nurse, currently licensed by the Virginia Board of Nursing, who has education and experience in the needs of the terminally ill. Duties and responsibilities of the supervising nurse shall include:

1. Assuring that nursing services delivered are provided according to established hospice program policies;

2. Assuring that nursing services are available 24 hours a day, 7 days a week and that licensed practical nurses and home attendants work under the direct supervision of a registered nurse;

3. Participating in the development and implementation of orientation and in-service training hospice programs for all levels of nursing staff employed by the hospice program;

4. Acting as nurse liaison with staff and other agencies, hospice programs and individuals that have contractual agreements to provide nursing services;

5. Participating in quality improvement reviews and evaluations of the nursing services provided; and

6. Directing or supervising the delivery of nursing services.

B. Nursing services shall include, but are not limited to:

1. Assessing a patient's needs and admission for service as appropriate;

2. Working with the IDG to develop a plan of care;

3. Implementing the plan of care;

4. Obtaining physician's orders when necessary;

5. Providing those services requiring substantial and specialized nursing skill;

6. Educating the patient and patient's family in the care of the patient, including pain management;

7. Evaluating the outcome of services;

8. Coordinating and communicating the patient's physical or medical condition to the IDG;

9. Preparing clinical notes; and

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10. Supervising licensed practical nurses and home attendants providing delegated nursing services.

C. A registered nurse shall coordinate the implementation of each patient's plan of care.

D. If nursing duties are delegated, the hospice program shall develop and implement an organizational plan pursuant to 18 VAC 90-20-420 through 18 VAC 90-20-460 of the Virginia Administrative Code.

E. Licensed practical nurses shall be currently licensed by the Virginia Board of Nursing.

F. The services provided by a licensed practical nurse may include, but are not limited to:

1. Delivering nursing services according to the hospice program's policies and standard nursing practices;
2. Assisting the registered nurse in performing specialized procedures;
3. Assisting the patient with activities of daily living, including the teaching of self-care techniques;
4. Preparing equipment and supplies for treatment that requires adherence to sterile or aseptic techniques; and
5. Preparing clinical notes.

## 12 VAC 5-391-350. Home attendant services.

A. Services of the home attendants may include, but are not limited to:

1. Assisting patients with (i) activities of daily living; (ii) ambulation and prescribed exercise; (iii) other special duties with appropriate training and demonstrated competency;
2. Assisting with oral or topical medications that the patient can normally self-administer;
3. Taking and recording vital signs as indicated in the plan of care;
4. Measuring and recording fluid intake and output;
5. Recording and reporting to the health care professional changes in the patient's physical condition, behavior or appearance;
6. Documenting services and observations in the medical record; and
7. Performing any other duties that the attendant is qualified to do by additional training and demonstrated competency, within state [ ~~and federal~~ ] guidelines.

B. Prior to the initial delivery of services, the home attendant shall receive specific written instructions for the patient's care from the appropriate health care professional responsible for the care.

C. Home attendants shall work under the supervision of the appropriate health care professional responsible for the patient's care.

D. The nurse responsible for supervising the home attendant shall make visits to the patient's home as frequently as

necessary, but not less than every two weeks. The results of each visit shall be documented in the medical record.

E. Relevant in-service education or training for home attendants shall consist of at least 12 hours annually. In-service training may be in conjunction with on-site supervision.

F. Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications:

1. Have satisfactorily completed a nursing education hospice program preparing for registered nurse licensure or practical nurse licensure;
2. Have satisfactorily completed a nurse aide education hospice program approved by the Virginia Board of Nursing;
3. Have certification as a nurse aide issued by the Virginia Board of Nursing;
4. Be successfully enrolled in a nursing education hospice program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving patient care; [ ~~or~~ ]
5. Have satisfactorily passed a competency evaluation [ ~~hospice program~~ ] that meets the criteria of 42 CFR 484.36 (b) [ - ; or
6. Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," dated 2003, of the Department of Medical Assistance Services. However, the training is permissible for volunteers only. ]

## 12 VAC 5-391-360. Medical social services.

A. Social services shall be provided according to the plan of care under the direction of a qualified social worker who holds, at a minimum, a bachelor's degree with major studies in social work, sociology, or psychology from a four-year college or university accredited by the Council on Social Work Education and has at least [ ~~three~~ two ] years experience in case work or counseling in a health care or social services delivery system.

The hospice program has one year from the effective date of this chapter to ensure the designated individual meets the qualifications of this standard.

B. The duties of the social worker may include, but are not limited to:

1. Conducting a complete psychosocial assessment of the patient and family and participating in the development of the plan of care at the time of the patient's admission;
2. Delivering or supervising the delivery of social services to the patient or the patient's family;
3. Reviewing and updating the plan of care as often as necessary;
4. Obtaining physician's orders for services, as necessary;
5. Assisting the patient and family with identifying and accessing community resources;

6. Reporting any changes in the emotional, social, or financial condition of the patient or family to the attending physician;

7. Acting as consultant to hospice program staff;

8. Participating in the quality improvement reviews and evaluation of social services;

9. Preparing clinical notes; and

10. Participating in discharge planning.

**12 VAC 5-391-370. Spiritual counseling and bereavement services.**

A. The hospice program shall provide for the delivery of spiritual counseling and bereavement services that reflect the family's needs and desires and are delivered according to the overall plan of care.

B. Spiritual counseling may be provided through a working arrangement with individual clergy, clergy associations and other religious programs in the community or by clergy employed by the hospice program.

C. The hospice program shall provide bereavement services to the family for a minimum of one year after the patient's death.

D. The hospice program shall maintain a list of individuals who provide spiritual and bereavement services. The list shall be made available, upon request to patients, families, hospice program employees and contractors.

E. Arrangements for and delivery of spiritual counseling and bereavement services shall be documented in the patient's record.

**12 VAC 5-391-380. Dietary or nutritional counseling**

Dietary or nutritional counselors shall meet the requirements of 18 VAC 75-30 pursuant to Chapter 27.1 (§ 54.1-2730 et seq.) of Title 54.1 of the Code of Virginia and have at least two years experience in a health care food or nutrition delivery system.

**12 VAC 5-391-390. Therapy services.**

A. Physical therapy, occupational therapy, or speech therapy services shall be provided under the direction of an appropriately qualified therapist licensed or certified as required in Virginia. The therapy services provided may include, but are not limited to:

1. Assessing patient needs;
2. Participating, as necessary, in developing a patient's plan of care;
3. Implementing therapy services as documented in a patient's plan of care;
4. Evaluating the outcome of the services provided;
5. Educating the patient and family regarding the therapy services provided;
6. Providing therapy service consultation to other health care professionals;

7. Coordinating and communicating with the IDG regarding changes in the patient's needs;

8. Supervising therapy assistants and home attendants as appropriate;

9. Preparing clinical notes; and

10. Obtaining physician orders, when necessary.

B. The occupational therapy assistant shall practice under the supervision of a licensed occupational therapist.

C. The physical therapy assistant shall be currently licensed by the Virginia Board of Physical Therapists and shall practice under the supervision of a licensed physical therapist.

D. Duties of therapy assistants shall include, but are not limited to:

1. Performing services planned, delegated, and supervised by the appropriately licensed or certified therapist; and

2. Preparing clinical notes.

**12 VAC 5-391-400. Volunteer services.**

A. The hospice program shall utilize trained volunteers to provide patient [ care, including the activities of daily living, ] and family [ ~~care and~~ ] support.

B. The hospice program shall have a plan delineating training, responsibilities, and supervision of all volunteers.

C. The hospice program shall demonstrate evidence of ongoing continuing education and recruitment activities for volunteers.

Article 2.  
Other Special Services.

**12 VAC 5-391-410. Other special services.**

A. Other special services may be offered at the option of the hospice program and may include, but are not limited to:

1. Respiratory therapy; and
2. Pharmacy therapy.

B. Special services may be provided by hospice program employees or through contractual arrangements with individuals or programs that are licensed or certified as required by law.

C. A patient's need for special services shall be documented in the plan of care prepared by the IDG.

D. The special service provider shall assess the patient's need, assist in the development of the plan of care, and provide services according to the plan of care.

E. The special service provider shall participate in the review and update of the plan of care.

F. The special service provider shall instruct the patient, family members, and hospice staff, as appropriate, in assisting with the treatments.

G. Special services provided shall be documented in the medical record.

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H. The special service provider shall provide consultative services and in-service training to hospice program staff as needed.

## **12 VAC 5-391-420. Respiratory therapy.**

Respiratory therapy services shall be provided by a respiratory therapist licensed in Virginia. The duties of the respiratory therapist shall include:

1. Assessing patient needs;
2. Participating with the IDG in developing a plan of care;
3. Implementing a plan of care and revising as necessary;
4. Evaluating the outcome of the care provided;
5. Educating the patient and family;
6. Providing consultation to other health care professionals;
7. Coordinating and communicating with the IDG regarding changes in the patient's needs;
8. Preparing clinical notes; and
9. Obtaining physician orders, when necessary.

## **12 VAC 5-391-430. Pharmacy services.**

A. All prescription drugs shall be prescribed and properly dispensed to the patient according to the provisions of Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.

B. Home attendants may assist only with those topical and oral medications that the patient would normally self administer. Any other drug shall be administered only by a licensed nurse or physician assistant.

C. The hospice program shall develop written policies and procedures for the administration of infusion therapy medications that include, but are not limited to:

1. Developing a plan of care;
2. Initiation of medication administration based on a prescriber's order and monitoring of the patient for response to the treatment and any adverse reactions or side effects;
3. Assessment of any factors related to the home environment that may affect the prescriber's decisions for initiating, modifying, or discontinuing medications;
4. Communication with the prescriber concerning assessment of the patient's response to therapy, any other patient specific needs, any significant change in the patient's condition;
5. Communication with the patient's provider pharmacy concerning problems or needed changes in a patient's medication [ - ; ]

6. Maintaining a complete and accurate record of medications prescribed, medication administration data, patient assessments, any laboratory tests ordered to monitor response to drug therapy and results, and communications with the prescriber and pharmacy provider;

7. Educating or instructing the patient, family members, or other caregivers involved in the administration of infusion therapy in the proper storage of medication, in the proper handling of supplies and equipment, in any applicable safety precautions, in recognizing potential problems with the patient, and actions to take in an emergency; and

8. Initial training and retraining of all hospice program staff providing infusion therapy.

D. The hospice program shall employ a registered nurse who holds a current active license with the Virginia Board of Nursing, has completed training in infusion therapy and has the knowledge, skills, and competencies to safely administer infusion therapy to supervise medication administration by staff. This person shall be responsible for ensuring compliance with applicable laws and regulations, adherence to the policies and procedures related to administration of medications, and conducting periodic assessments of staff competency in performing infusion therapy.

## **PART V.**

### **DEDICATED HOSPICE FACILITIES.**

## **12 VAC 5-391-440. General facility requirements.**

A. In addition to the facility licensure requirements in 12 VAC 5-391-120, providers of dedicated hospice facilities shall maintain compliance with the standards of this section.

B. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a dedicated hospice facility shall comply with applicable state and federal laws and regulations.

All buildings shall be inspected and approved as required by the appropriate regional state fire marshal's office or building and fire regulatory official. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.

C. The facility shall provide 24-hour nursing services sufficient to meet the total nursing needs according to individual plans of care, including treatments, medication, and diet as prescribed, of the patients and shall keep patients comfortable, clean, well-groomed, and protected from accident, injury, and infection.

D. The facility must have space for private patient family visiting and accommodations for family members after a patient's death. Patients shall be allowed to receive guests, including small children, at any hour.

E. Patient rooms must be at grade level or above, enclosed by four ceiling-high walls, and able to house one or more patients. Each room shall be equipped for adequate nursing care, the comfort and privacy of patients, and with a device for calling the staff member on duty.



F. Designated guest rooms for family members or patient guests and beds for use by employees of the facility shall not be included in the bed capacity of a hospice facility provided such beds and locations are identified and used exclusively by staff, volunteers or patient guests.

Employees shall not utilize patient rooms nor shall bedrooms for employees be used by patients.

G. Waste storage shall be located in a separate area outside or easily accessible to the outside for direct pickup or disposal. The use of an incinerator shall require [a permit permitting] from [the nearest regional permitting office for] the Department of Environmental Quality.

H. The facility shall assist in obtaining transportation, when necessary, to obtain medical and psychiatric care, routine and emergency dental care, diagnostic or other services outside the facility.

I. The facility shall provide or arrange for under written agreement, laboratory, x-ray, and other diagnostic services, as ordered by the patient's physician.

J. There shall be a plan implemented to assure the continuation of essential patient support services in case of power outages, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

## **12 VAC 5-391-450. Required staffing.**

A. Each shift must include at least one registered nurse providing direct patient care.

B. Minimum staffing for a hospice facility with five patient beds shall consist of one registered nurse and one additional direct care staff member on duty at all times. Staffing for hospice facilities with six or more beds shall [~~have two or more registered nurses and two or more direct care staff, as appropriate to the needs of the patients, on duty at all times~~] be based on the assessed needs of the patients in the facility].

[~~Additional staff members may be required if it is determined by the center that the minimum staff requirements are inadequate to provide appropriate care, treatment, services, and supervision to the patients in the facility.~~]

## **12 VAC 5-391-460. Pharmacy services.**

A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.

B. The dedicated facility shall comply with the Virginia Board of Pharmacy regulations related to pharmacy services in long-term care facilities, i.e., Part XII (18 VAC 110-20-530 et seq.) of the Virginia Board of Pharmacy Regulations.

C. Each dedicated hospice facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration and disposal of drugs.

D. Each facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the facility.

The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the facility for a sufficient number of hours to carry out the function of the agreement.

E. Each prescription container shall be individually labeled by the pharmacist for each patient or provided in an individualized unit dose system.

F. No drug or medication shall be administered to any patient without a valid verbal order or a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.

G. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.

[~~H. Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped, according to the written policies of the facility, and the attending physician shall be notified.~~]

[~~H.~~] Each patient's medication regimen shall be reviewed by a pharmacist licensed in Virginia. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.

[~~I.~~] Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.

[~~J.~~] Prescription and nonprescription drugs and medications may be brought into the facility by a patient's family, friend or other person provided:

1. The individual delivering the drugs and medications assures timely delivery, in accordance with the facility's written policies, so that the patient's prescribed treatment plan is not disrupted;
2. Each drug or medication is in an individual container; and
3. Delivery is not allowed directly to an individual patient.

In addition, prescription medications shall be:

4. Obtained from a pharmacy licensed by the state or federal authority; and
5. Securely sealed and labeled by a licensed pharmacist according to 18 VAC 110-20-330 and 18 VAC 110-20-340.

## **12 VAC 5-391-470. Restraints.**

A. Periodic or continuous mechanical or physical restraints during routine care of a patient shall not be permitted, nor shall patients be restrained for employee convenience or as a substitute for care, treatment, or services. In cases of extreme emergencies, when a patient is a danger to himself or others, mechanical or physical restraints may be used as ordered by a physician or other health care provider.

B. Only those devices specifically designed as restraints may be used. Makeshift restraints shall not be used under any circumstances.

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## **12 VAC 5-391-480. Food service.**

A. The facility shall provide dietary services to meet the daily nutritional needs of patients.

B. If the facility has patients requiring medically prescribed special diets, the menus for such diets shall be planned by a dietitian qualified according to Chapter 27.1 (§ 54.1-2730 et seq.) of Title 54.1 of the Code of Virginia, or shall be reviewed and approved by a physician. The facility shall provide supervision of the preparation and serving of any special diets.

C. When meals are catered to a hospice facility, such meals shall be obtained from a food service establishment licensed by the Virginia Department of Health. There shall be a current written contract with the food service establishment [ pursuant to 12 VAC 5-391-230 ].

## **12 VAC 5-391-490. Laundry services.**

A. A quantity of linens shall be available at all times to provide for proper care and comfort of residents.

B. Linens and other laundry must be handled, stored and processed to control the spread of infection.

C. Clean linen shall be stored in a clean and dry area accessible to patient rooms.

D. Soiled linen shall be stored in covered containers in separate, well-ventilated areas and shall not accumulate in the facility.

E. Soiled linen shall not be sorted, laundered, rinsed or stored in bathrooms, patient rooms, kitchens or food storage areas.

F. Soiled linen shall not be placed on the floor.

G. Arrangement for laundering patient's personal clothing shall be provided. If laundry facilities are not provided on premises, commercial laundry services shall be utilized.

H. Laundry facilities shall include:

1. A soiled laundry receiving, holding, and sorting room with hand-washing lavatory; and
2. A clean laundry storage, issuing, and holding room or area.

I. On-premise laundry service facilities shall include:

1. A laundry processing room with commercial-type equipment capable of processing seven days needs within a regularly scheduled workweek and a hand-washing lavatory;
2. A storage space for laundry supplies; and
3. A clean laundry inspection and mending room or area.

## **12 VAC 5-391-500. Pet care.**

[ A. ] If the facility chooses to permit pets, then healthy animals that are free of fleas, ticks and intestinal parasites, that have been screened by a veterinarian prior to entering the facility, that have received required inoculations and that represent no apparent threat to the health, safety, and well-being of the patients may be permitted provided they are

properly cared for and the pet and its housing or bedding are kept clean.

[ B. ] Pets shall not be allowed near patients with pet allergies or patients choosing not to be disturbed by animals. Pets shall not be allowed in dining and kitchen areas when food is being prepared or served.

### [ DOCUMENTS INCORPORATED BY REFERENCE

Personal Care Aide Training Curriculum, 2003, Department of Medical Assistance Services. ]

**NOTICE:** The form used in administering 12 VAC 5-391, Regulations for the Licensure of Hospice, is listed and published below.

### FORMS

Virginia Department of Health, Center for Quality Health Care Services and Consumer Protection, Application for Licensure, Hospice Organization (eff. 7/04).



Virginia Department of Health

Center for Quality Health Care Services and Consumer Protection

**APPLICATION FOR LICENSURE  
Hospice Organization**

In accordance with § 32.1-162.3 of the Code of Virginia: "No person shall establish or operate a home care organization without a license unless he is exempt from licensure pursuant to § 32.1-162.2" of the Code of Virginia. Applications must be received 60 days in advance of effective date to allow for processing of the application. Application fees must accompany an application and are not refundable.

This application must be completed in its entirety -  
Incomplete applications will not be processed.

ANY CHANGES DURING THE LICENSURE PERIOD AFFECTING THE INFORMATION CONTAINED  
IN THIS APPLICATION MUST BE REPORTED TO THE CENTER 30 DAYS PRIOR TO THE EFFECTIVE DATE  
OF THE PROPOSED CHANGE.

Initial License

Renewal License

License Re-issue:

Organization Name:		
Legal Name:		
Street Address: City/County/Zip		
Mailing address: City/County/Zip		
Business Phone Number:		FAX Number:
Administrator of Record:		
E-Mail address:		
Owner Name:		
Operator Name:		

7/23/2004

VA.R. Doc. Nos. R02-37 and R02-40; Filed June 30, 2005, 10:40 a.m.

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# Final Regulations

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## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**Title of Regulation:** 12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services (amending 12 VAC 30-70-291, 12 VAC 30-70-301 and 12 VAC 30-70-391).

**Statutory Authority:** §§ 32.1-324 and 32.1-325 of the Code of Virginia; Items 326 (OO) and 326 (NN) of Chapter 4 of the 2004 Acts of Assembly, Special Session I.

**Effective Date:** September 1, 2005.

**Agency Contact:** Steve Ford, Provider Reimbursement Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7355, FAX (804) 786-1680, or e-mail [steve.ford@dmas.virginia.gov](mailto:steve.ford@dmas.virginia.gov).

**Summary:**

*The amendments increase Medicaid indirect medical education reimbursements to hospitals in order to offset the reduction resulting from the elimination of neonatal intensive care disproportionate share payments. In addition, the changes exclude freestanding psychiatric hospitals from the standard rebasing action scheduled in fiscal year 2005. Emergency regulations to implement these changes have been in effect since September 2004.*

**Summary of Public Comments and Agency's Response:** No public comments were received by the promulgating agency.

CHAPTER 70.  
METHODS AND STANDARDS FOR ESTABLISHING  
PAYMENT RATES; - INPATIENT HOSPITAL CARE  
SERVICES.

**12 VAC 30-70-291. Payment for indirect medical education costs.**

A. Hospitals shall be eligible to receive payments for indirect medical education. These payments recognize the increased use of ancillary services associated with the educational process and the higher case-mix intensity of teaching hospitals. The payments for indirect medical education shall be made in estimated quarterly lump sum amounts and settled at the hospital's fiscal year end.

B. Final payment for IME shall be determined as follows:

1. Type One hospitals shall receive an IME payment equal to the hospital's Medicaid operating reimbursement times an IME percentage determined as follows:

IME Percentage for Type One Hospitals =  $[1.89 \times ((1 + r)^{0.405} - 1)] \times$  (IME Factor)

An IME factor shall be calculated for each Type One hospital and shall equal a factor that, when used in the calculation of the IME percentage, shall cause the resulting IME payments to equal what the IME payments would be with an IME factor of one, plus an amount equal to the difference between operating payments using the adjustment factor specified in subdivision B 1 of 12 VAC 30-70-331 and operating payments using an adjustment factor

of one in place of the adjustment factor specified in subdivision B 1 of 12 VAC 30-70-331.

2. Type Two hospitals shall receive an IME payment equal to the hospital's Medicaid operating reimbursement times an IME percentage determined as follows:

IME Percentage for Type Two Hospitals =  $[1.89 \times ((1 + r)^{0.405} - 1)] \times$  0.4043 0.5695

In both equations, r is the ratio of full-time equivalent residents to staffed beds, excluding nursery beds. The IME payment shall be calculated each year using the most recent reliable data regarding the number of full-time equivalent residents and the number of staffed beds, excluding nursery beds.

C. An additional IME payment shall be made for inpatient hospital services provided to Medicaid patients but reimbursed by capitated managed care providers. This payment shall be equal to the hospital's hospital specific operating rate per case, as determined in 12 VAC 30-70-311, times the hospital's HMO paid discharges times the hospital's IME percentage, as determined in subsection B of this section.

**12 VAC 30-70-301. Payment to disproportionate share hospitals.**

A. Payments to disproportionate share hospitals (DSH) shall be prospectively determined in advance of the state fiscal year to which they apply. The payments shall be made on a quarterly basis, shall be final, and shall not be subject to settlement except when necessary due to the limit in subsection D of this section.

B. Hospitals qualifying under the 15% inpatient Medicaid utilization percentage shall receive a DSH payment based on the hospital's type and the hospital's Medicaid utilization percentage.

1. Type One hospitals shall receive a DSH payment equal to:

a. The sum of (i) the hospital's Medicaid utilization percentage in excess of 10.5%, times 17, times the hospital's Medicaid operating reimbursement, times 1.4433 and (ii) the hospital's Medicaid utilization percentage in excess of 21%, times 17, times the hospital's Medicaid operating reimbursement, times 1.4433.

b. Multiplied by the Type One hospital DSH Factor.

The Type One hospital DSH factor shall equal a percentage that when applied to the DSH payment calculation yields a DSH payment equal to the total calculated using the methodology outlined in subdivision 1 a of this subsection using an adjustment factor of one in the calculation of operating payments rather than the adjustment factor specified in subdivision B 1 of 12 VAC 30-70-331.

2. Type Two hospitals shall receive a DSH payment equal to the sum of (i) the hospital's Medicaid utilization percentage in excess of 10.5%, times the hospital's Medicaid operating reimbursement, times 1.2074 and (ii) the hospital's Medicaid utilization percentage in excess of

21%, times the hospital's Medicaid operating reimbursement, times 1.2074.

C. Hospitals qualifying under the 25% low-income patient utilization rate shall receive a DSH payment based on the hospital's type and the hospital's low-income utilization rate.

1. Type One hospitals shall receive a DSH payment equal to the product of the hospital's low-income utilization in excess of 25%, times 17, times the hospital's Medicaid operating reimbursement.

2. Type Two hospitals shall receive a DSH payment equal to the product of the hospital's low-income utilization in excess of 25%, times the hospital's Medicaid operating reimbursement.

3. Calculation of a hospital's low-income patient utilization percentage is defined in 42 USC § 1396r-4(b)(3).

D. No DSH payments shall exceed any applicable limitations upon such payments established by federal law or regulations and OBRA 1993 § 13621. A DSH payment during a fiscal year shall not exceed the sum of:

1. Medicaid allowable costs incurred during the year less Medicaid payments, net of disproportionate share payment adjustments, for services provided during the year. Costs and payments for Medicaid recipients enrolled in capitated managed care programs shall be considered Medicaid costs and payments for the purposes of this section.

2. Costs incurred in serving persons who have no insurance less payments received from those patients or from a third party on behalf of those patients. Payments made by any unit of the Commonwealth or local government to a hospital for services provided to indigent patients shall not be considered to be a source of third party payment.

E. Each hospital's eligibility for DSH payment and the amount of the DSH payment shall be calculated at the time of each rebasing using the most recent reliable utilization data and projected operating reimbursement data available. The utilization data used to determine eligibility for DSH payment and the amount of the DSH payment shall include days for Medicaid recipients enrolled in capitated managed care programs. In years when DSH payments are not rebased in the way described above, the previous year's amounts shall be adjusted for inflation.

~~1. Each hospital with a Medicaid recognized Neonatal Intensive Care Unit (NICU), a unit having had a unique NICU operating cost limit under subdivision 6 of 12 VAC 30-70-50, shall have its DSH payment calculated separately for the NICU and for the remainder of the hospital as if the two were separate and distinct providers. This calculation shall follow the methodology provided in this section.~~

2. For freestanding psychiatric facilities licensed as hospitals, DSH payment shall be based on the most recently settled Medicare cost report available before the beginning of the state fiscal year for which a payment is being calculated.

**12 VAC 30-70-391. Recalibration and rebasing policy.**

A. The department recognizes that claims experience or modifications in federal policies may require adjustment to the

DRG payment system policies provided in this part. The state agency shall recalibrate (evaluate and adjust the DRG relative weights and hospital case-mix indices) and rebase (review and update the base year standardized operating costs per case and the base year standardized operating costs per day) the DRG payment system at least every three years. Recalibration and rebasing shall be done in consultation with the Medicaid Hospital Payment Policy Advisory Council noted in 12 VAC 30-70-490. When rebasing is carried out, if new rates are not calculated before their required effective date, hospitals required to file cost reports and freestanding psychiatric facilities licensed as hospitals shall be settled at the new rates, for discharges on and after the effective date of those rates, at the time the hospitals' cost reports for the year in which the rates become effective are settled.

*B. Rates for freestanding psychiatric facilities licensed as hospitals shall continue to be based on the 1998 base year until rates for all inpatient hospitals are rebased subsequent to SFY 2005.*

VA.R. Doc. No. R04-243 and R04-246; Filed July 1, 2005, 4:49 p.m.

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**Title of Regulation: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-190).**

**Statutory Authority:** §§ 32.1-324 and 32.1-325 of the Code of Virginia.

**Effective Date:** September 1, 2005.

**Agency Contact:** Steve Ford, Provider Reimbursement Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7355, FAX (804) 786-1680, or e-mail [steve.ford@dmas.virginia.gov](mailto:steve.ford@dmas.virginia.gov).

**Summary:**

*The amendments (i) increase Medicaid and Family Access to Medical Insurance Security reimbursements by 34% for obstetrical and gynecological physician services and (ii) increase Medicaid reimbursement by 2.0% to physicians delivering certain Medicaid services in hospital emergency rooms.*

**Summary of Public Comments and Agency's Response:** No public comments were received by the promulgating agency.

**12 VAC 30-80-190. State agency fee schedule for RBRVS.**

A. Reimbursement of fee-for-service providers. Effective for dates of service on or after July 1, 1995, the Department of Medical Assistance Services (DMAS) shall reimburse fee-for-service providers, with the exception of home health services (see 12 VAC 30-80-180) and durable medical equipment services (see 12 VAC 30-80-30), using a fee schedule that is based on a Resource Based Relative Value Scale (RBRVS).

B. Fee schedule.

1. For those services or procedures which are included in the RBRVS published by the ~~Health Care Financing Administration (HCFA)~~ *Centers for Medicare and Medicaid*

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Services (CMS) as amended from time to time, DMAS' fee schedule shall employ the Relative Value Units (RVUs) developed by HCFA CMS as periodically updated.

2. DMAS shall calculate the RBRVS-based fees using conversion factors (CFs) published from time to time by HCFA CMS. DMAS shall adjust HCFA's CMS' CFs by an additional factor so that no change in expenditure will result solely from the implementation of the RBRVS-based fee schedule. DMAS shall calculate a separate additional factor for (i) obstetrical/gynecological procedures (defined as maternity care and delivery procedures, female genital system procedures, obstetrical/gynecological-related radiological procedures, and mammography procedures, as defined by the American Medical Association's (AMA) annual publication of the Current Procedural Terminology (CPT) manual) and for (ii) all other procedures set through the RBRVS process combined. DMAS may revise the additional factor factors when HCFA CMS updates its RVUs or CFs so that no change in expenditure will result solely from such updates. Except for this adjustment, DMAS' CFs shall be the same as those published from time to time by HCFA CMS. The calculation of the additional factor factors shall be based on the assumption that no change in services provided will occur as a result of these changes to the fee schedule. The determination of the "additional factor" factors required above shall be accomplished by means of the following calculation:

a. The estimated amount of DMAS expenditures if DMAS were to use Medicare's RVUs and CFs without modification, is equal to the sum, across all relevant procedure codes, of the RVU value published by the HCFA CMS, multiplied by the applicable conversion factor published by the HCFA CMS, multiplied by the number of occurrences of the procedure code in DMAS patient claims in the most recent period of time (at least six months).

b. The estimated amount of DMAS expenditures, if DMAS were not to calculate new fees based on the new HCFA CMS RVUs and CFs, is equal to the sum, across all relevant procedure codes, of the existing DMAS fee multiplied by the number of occurrences of the procedure code in DMAS patient claims in the period of time used in subdivision 1 of this subsection.

c. The relevant "additional factor" is equal to the ratio of the expenditure estimate (based on DMAS fees in subdivision 2 of this subsection) to the expenditure estimate based on unmodified HCFA CMS values in subsection A of this section.

3. For those services or procedures for which there are no established RVUs, DMAS shall approximate a reasonable relative value payment level by looking to similar existing relative value fees. If DMAS is unable to establish a relative value payment level for any service or procedure, the fee shall not be based on a RBRVS, but shall instead be based on the previous fee-for-service methodology.

4. Fees shall not vary by geographic locality.

5. ~~The RBRVS based fees shall be phased in over three years. During the first 12 months of implementation, fees~~

~~shall be based 1/3 on RBRVS based fees and 2/3 on previously existing fees. During the second 12 months of implementation, fees shall be based 2/3 on RBRVS based fees and 1/3 on previously existing fees. Thereafter, fees shall be based entirely on RBRVS based fees. Effective for dates of service on or after September 1, 2004, fees calculated through subdivisions 1 through 4 of this subsection for CPT codes 99281, 99282, 99283, 99284, and 99285 shall be increased by 2.0%. This increase shall not be considered in the determination of the additional factor described in subdivision 2 of this subsection. These CPT codes shall be as published by the American Medical Association in its Current Procedural Terminology (2004 edition), as may be amended from time to time.~~

C. Effective for dates of service on or after September 1, 2004, fees for obstetrical/gynecological procedures (defined as maternity care and delivery procedures, female genital system procedures, obstetrical/gynecological-related radiological procedures, and mammography procedures, as defined by the American Medical Association's (AMA) annual publication of the Current Procedural Terminology (CPT) manual) shall be increased by 34% relative to the fees in effect on July 1, 2004. This 34% increase shall be a one-time increase, but shall be included in subsequent calculations of the relevant additional factor described in subdivision 2 of this subsection.

VA.R. Doc. No. R05-06 and R05-10; Filed July 1, 2005, 4:44 p.m.

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## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt 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.

**Titles of Regulations:** 14 VAC 5-210. Rules Governing Health Maintenance Organizations (repealing 14 VAC 5-210-10 through 14 VAC 5-210-150).

**14 VAC 5-211. Rules Governing Health Maintenance Organizations (adding 14 VAC 5-211-10 through 14 VAC 5-211-280).**

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

**Effective Date:** July 1, 2005.

**Agency Contact:** Jacqueline Cunningham, Deputy Commissioner, Life and Health Division, Bureau of Insurance, State Corporation Commission, 1300 East Main Street, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9074, FAX (804) 371-9944, or e-mail [jcunningham@scc.virginia.gov](mailto:jcunningham@scc.virginia.gov).

## Summary:

AT RICHMOND, JUNE 23, 2005

*This action repeals 14 VAC 5-210 and promulgates 14 VAC 5-211. The regulations have not been revised in many years, and a significant number of changes are made to comply with the Code of Virginia and the National Association of Insurance Commissioners (NAIC) Model Regulation. The regulations set forth rules to carry out the provisions of Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 of the Code of Virginia, and apply to all health maintenance organizations operating in this Commonwealth. The regulations (i) set forth definitions in accordance with the Code of Virginia and the NAIC Model Regulation; (ii) explain and elaborate on financial condition and filing requirements as set out in the Code of Virginia; (iii) set out contractual and notification requirements, as well as disclosure provisions and specific prohibited practices; and (iv) elaborate on the health care services to be provided by health maintenance organizations.*

*Highlights of changes that were made to the proposed regulation are as follows:*

*The compliance date for all new and renewing contracts or evidences of coverage was changed to January 1, 2006.*

*The definition of "affiliated provider" was combined with "participating provider."*

*The definitions of "coinsurance" and "commission" were added; the definition of "cost of services" was deleted.*

*14 VAC 5-211-60 dealing with the removal or transfer of property was deleted.*

*A continuation of coverage option was added to renumbered 14 VAC 5-211-70.*

*Coordination of benefits language was clarified in renumbered 14 VAC 5-211-80.*

*Requirements for copayments were clarified in renumbered 14 VAC 5-211-90.*

*Language regarding deductibles was deleted and reference made to the Code of Virginia in renumbered 14 VAC 5-211-100.*

*A new subsection was added in renumbered 14 VAC 5-211-130 to exclude application to DMAS and FAMIS plans.*

*Basic and limited health care services were split into two separate sections (14 VAC 5-211-160 and 14 VAC 5-211-190).*

*Obstetrical services were deleted from the list of basic health care services due to requirements in the Code of Virginia, and minimum services for nonbiologically based mental illness were modified in 14 VAC 5-211-160.*

*A separate provision for the mailing of an identification card was added, and the grace period requirements were modified in 14 VAC 5-211-210.*

*Termination provisions were modified.*

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of                   CASE NO. INS-2004-00123  
Repealing and Restating the  
Rules Governing Health  
Maintenance Organizations

### ORDER REPEALING AND ADOPTING RULES

By order entered herein August 16, 2004, all interested persons were ordered to take notice that subsequent to November 15, 2004, the Commission would consider the entry of an order repealing Ch. 210 of Title 14 of the Virginia Administrative Code entitled Rules Governing Health Maintenance Organizations, and adopting new Rules proposed by the Bureau of Insurance ("Bureau") set forth in Chapter 211 of Title 14 of the Virginia Administrative Code, entitled Rules Governing Health Maintenance Organizations, unless on or before November 15, 2004, any person objecting to the adoption of the proposed Rules filed a request for hearing with the Clerk of the Commission (the "Clerk").

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the repeal of and the proposed new Rules on or before November 15, 2004.

Four companies or organizations - The Virginia Association of Health Plans ("VAHP"), Piedmont Community Healthcare, Inc. ("Piedmont"), Southern Health Services, Inc. ("Southern Health"), and the Alliance of Virginia Dental Plans ("Alliance") - all filed comments to the proposed new Rules with the Clerk on November 15, 2004, and all requested a hearing.

On November 22, 2004, the Commission issued a Scheduling Order, setting the hearing for May 3, 2005, and also directing the Bureau to meet with those persons who submitted comments prior to the hearing and attempt to narrow the issues to be addressed at the hearing.

The Bureau invited all such parties to three meetings, and numerous changes were made to the proposed Rules as a result.

On April 13, 2005, the Bureau filed a new draft of the proposed Rules incorporating changes made as a result of meetings and its Statements of Position in response to the comments filed by VAHP, Piedmont, Southern Health and the Alliance with the Clerk.

On April 19, 2005, Piedmont filed a Notice of Intent to Appear ("Notice") at the public hearing. Piedmont's Notice stated its intent to be heard on three of the Bureau's proposed Rules: (1) 14 VAC 5-211-160 (obstetrical services), (2) 14 VAC 5-211-90 (copayments), and (3) 14 VAC 5-211-160 (lifetime maximum benefits and annual benefits limits).

Regarding proposed Rule 14 VAC 5-211-160 on coverage for obstetrical services, the Bureau's position is that all medically necessary obstetrical services fall under the definition of "basic health care services" in § 38.2-4300 and current Rule 14 VAC 5-210-90, and therefore these services may not be

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excluded for any particular condition. Piedmont objects to mandated coverage for obstetrical services, and states that there is no mention of "obstetrical services" in § 38.2-4300 or 14 VAC 5-210-90. Piedmont contends that no reasonable inference can be drawn that the Virginia General Assembly intended for obstetrical services to be included within the definition of basic health care services.

Regarding proposed Rule 14 VAC 5-211-90 on copayments, the Bureau is of the opinion that it is properly interpreting §§ 38.2-4302 A 2, 38.2-4303 A 8 and 38.2-4306 A 4 b of the Code to limit the contribution an enrollee may make for a specific health care service to one form of copayment (a dollar amount or a percentage of cost) and a deductible. The Bureau believes that these Code sections require that a specific health care service may only be subject to one form of copayment and a deductible, but not to two or more forms of a copayment and a deductible (a total of three or more payments). Piedmont interprets the same Code sections as not prohibitive of the application of more than one form of copayment to a specific health care service. Piedmont argues that the decision to include different forms of copayments for specific services in a plan of coverage is the purchaser's or the HMO's decision.

Finally, regarding lifetime maximum benefits and annual benefit limits, the Bureau believes that a lifetime maximum coverage limitation would violate the definition of "health care plan" in § 38.2-4300 since once the lifetime maximum is reached, the health care plan is no longer providing or arranging for health care services. Piedmont argues that § 38.2-4300 does not prohibit the application of a lifetime maximum benefit or an annual benefit limit, and that the decision to include lifetime maximum benefits and annual benefit limits in a plan of coverage is the purchaser's or the HMO's decision.

On April 21, 2005, the Bureau, by its counsel, filed a Motion to Dispense with Hearing and Submit Written Briefs ("Motion"). The Bureau argued that Piedmont's notice of intent to appear at the hearing contains matters that are based solely on questions of law and no questions of fact are in dispute. The Bureau therefore requested that the Commission dispense with the hearing and direct the Bureau and Piedmont to submit briefs to the Commission on the three issues in Piedmont's notice. On April 26, 2005, Piedmont filed a Reply to the Bureau's Motion, and the Bureau filed its Response on the same day. On April 27, 2005, Piedmont filed a Motion to Set Schedule for Submission of Briefs and Public Comments. The Commission issued an Order Denying Motion on April 28, 2005.

On April 26, 2005, VAHP withdrew its request for a hearing; on April 28, 2005, Southern Health withdrew its request for a hearing, and on April 29, 2005, the Alliance withdrew its request for a hearing.

On May 3, 2005, the Commission held a public hearing at the request of Piedmont on three issues contained in the proposed Rules: (1) obstetrical services at 14 VAC 5-211-160; (2) copayments at 14 VAC 5-211-90; and (3) lifetime maximum benefits and annual benefit limits at 14 VAC 5-211-160. Thomas E. Martenstein, Esquire, appeared on behalf of Piedmont, and Bonnie Salzman, Esquire, appeared on behalf

of the Bureau of Insurance. At the hearing, the Commission received evidence on the proposed Rules through Bureau witness Jacqueline K. Cunningham and Piedmont witness Alan J. Wood. Reginald Jones appeared as a public witness on behalf of the VAHP.

Both the Bureau and Piedmont filed post-hearing briefs with the Commission on May 23, 2005.

NOW THE COMMISSION, having considered the request by the Bureau to repeal Chapter 210, and also having considered the proposed Rules at Chapter 211, the filed comments, the Bureau's response to and recommendation regarding the filed comments, the testimony given at the public hearing, and the briefs, is of the opinion that the attached Rules should be adopted, and Chapter 210 should be repealed.

We adopt the Rules as proposed by the Bureau in its April 13, 2005, filing with some modifications but without the additional language proposed by Piedmont and the Bureau. We believe the Bureau's proposed Rules continue to be a reasonable interpretation of § 38.2-4300 *et seq.*, but find that additional changes suggested by the Bureau are unnecessary and not required by statute.

We observe that proposed Rule 14 VAC 5-211-160 maintains the current rule's requirement that an HMO must provide, among other things, "medically necessary hospital and physician services." The words "medically necessary" have been defined to include, among other things, the care and treatment of a "pregnancy-related condition." See proposed Rule 14 VAC 5-211-20 and current Rule 14 VAC 5-210-40. We therefore believe that the Bureau's position constitutes a reasonable interpretation of the applicable laws and that the proposed Rules simply preserve that interpretation.

Regarding copayments, we believe the Bureau's interpretation of the applicable laws, including §§ 38.2-4302 A 2, 38.2-4303 A 8 and 38.2-4306 A 4 b of the Code, is reasonable, and we interpret these statutes to now permit (after the 2003 General Assembly amendments) both a copayment and a deductible, but not more than one copayment and deductible for the same health care service.

Regarding lifetime maximum benefits and annual benefits limits, we find the Bureau's interpretation of current law to be reasonable. We agree that, once such a maximum is reached, a HMO is no longer providing, arranging for, paying for, or reimbursing *any* part of the cost of any health care services. Accordingly, such maximums appear to run afoul of the definition of a "health care plan" in § 38.2-4300 of the Code. We believe that, if the General Assembly intended to permit a total exhaustion of health care services that might impact not just an enrollee, but also the enrollee's dependents, it would have more clearly indicated this objective in the statute.

We will, however, amend three sections of the Rules we discussed at the hearing that are unrelated to the issues raised by Piedmont. First, we amend the definition of "coinsurance" in 14 VAC 5-211-20 to make clear that it means a copayment expressed as a percentage of the allowable charge for a specific health care service. Next, we add language to 14 VAC 5-211-210 to ensure that enrollees receive an identification card within 15 days after the effective



date of coverage or enrollment. Finally, we address our concern that health maintenance organizations could terminate a policy for an enrollee's failure to make a copayment by striking the words "or copayment" in 14 VAC 5-211-230 A 1. A copayment is owed by the enrollee to the health care provider, not to the health maintenance organization, and the health care provider has remedies for an enrollee's failure to pay the copayment which are not affected by this regulation.

Accordingly, IT IS ORDERED THAT:

(1) Chapter 210 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations" shall be REPEALED; and

(2) The proposed Rules with changes noted, designated as Chapter 211 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations" which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective July 1, 2005.

(3) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Jacqueline K. Cunningham, Deputy Commissioner, Bureau of Insurance, State Corporation Commission who forthwith shall give further notice of the repeal of Chapter 210 and adoption of new Chapter 211 Rules by mailing a copy of this Order, including a clean copy of the attached final Rules, to all health maintenance organizations licensed by the Bureau of Insurance in the Commonwealth of Virginia, and certain interested parties designated by the Bureau of Insurance.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make this Order and the attached rules available on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements in paragraph (3) of this Order.

(6) This case is dismissed.

CHAPTER 211.  
RULES GOVERNING HEALTH MAINTENANCE  
ORGANIZATIONS.

PART I.  
APPLICABILITY AND DEFINITIONS.

**14 VAC 5-211-10. Applicability and scope.**

A. This chapter sets forth rules to carry out the provisions of Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 of the Code of Virginia, and applies to all health maintenance organizations and to all health maintenance organization contracts and evidences of coverage delivered or issued for delivery by a health maintenance organization established or operating in this Commonwealth on and after [ ~~April 1, 2005~~ January 1, 2006 ].

B. A new contract or evidence of coverage issued or put in force on or after [ ~~April 1, 2005~~ January 1, 2006 ], shall comply with this chapter.

C. A contract or evidence of coverage reissued, renewed, or extended in this Commonwealth on or after [ ~~April 1, 2005~~ January 1, 2006 ], shall comply with this chapter. A contract or evidence of coverage written before [ ~~April 1, 2005~~ January 1, 2006 ], shall be deemed to be reissued, renewed, or extended on the date it allows the health maintenance organization to change its terms or adjust the premiums charged.

D. In the event of conflict between the provisions of this chapter and the provisions of any other rules issued by the commission, the provisions of this chapter shall be controlling as to health maintenance organizations.

**14 VAC 5-211-20. Definitions.**

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

[ "~~Affiliated provider~~" means a provider that is employed by or has entered into a contractual agreement either directly or indirectly with a health maintenance organization to provide health care services to members of the health maintenance organization. ]

"Basic health care services" means in-area and out-of-area emergency services, inpatient hospital and physician care, outpatient medical services, laboratory and radiologic services, and preventive health services as further described in [ ~~14 VAC 5-211-170~~ 14 VAC 5-211-160 ]. "Basic health care services" also means limited treatment of mental illness and substance abuse in accordance with the minimum standards as may be prescribed by the commission, which shall not exceed the level of services mandated for insurance carriers pursuant to Chapter 34 (§ 38.2-3400 et seq.) of Title 38.2 of the Code of Virginia. In the case of a health maintenance organization that has contracted with this Commonwealth to furnish basic health care services to recipients of medical assistance under Title XIX of the Social Security Act (42 USC § 1396 et seq.) pursuant to § 38.2-4320 of the Code of Virginia, the basic health care services to be provided by the health maintenance organization to program recipients may differ from the basic health care services required by this chapter to the extent necessary to meet the benefit standards prescribed by the state plan for medical assistance services authorized pursuant to § 32.1-325 of the Code of Virginia.

[ "Coinsurance" means a copayment, expressed as a percentage of the allowable charge for a specific health care service.

"Commission" means the State Corporation Commission. ]

"Conversion contract" means an individual contract that the health maintenance organization issues after a conversion option has been exercised.

"Copayment" means an amount an enrollee is required to pay in order to receive a specific health care service.

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~~["Cost of services" means the amount that the health maintenance organization is required to pay for services under its contract with a subscriber or under a provider agreement applicable to the services rendered.]~~

"Deductible" means an amount an enrollee is required to pay out of pocket before the health care plan begins to pay the costs associated with health care services.

"Emergency services" means those health care services that are rendered by affiliated or nonaffiliated providers after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine to result in (i) serious jeopardy to the mental or physical health of the individual, (ii) danger of serious impairment of the individual's bodily functions, (iii) serious dysfunction of any of the individual's bodily organs, or (iv) in the case of a pregnant woman, serious jeopardy to the health of the fetus. Emergency services provided within the plan's service area shall include covered health care services from nonaffiliated providers only when delay in receiving care from a provider affiliated with the health maintenance organization could reasonably be expected to cause the enrollee's condition to worsen if left unattended.

"Enrollee" or "member" means an individual who is enrolled in a health care plan.

"Evidence of coverage" means a certificate, individual or group agreement or contract, or identification card issued in conjunction with the certificate, agreement or contract, issued to a subscriber setting out the coverage and other rights to which an enrollee is entitled.

"Excess insurance" or "stop loss insurance" means insurance issued to a health maintenance organization by an insurer licensed in this Commonwealth, on a form approved by the commission, or a risk assumption transaction acceptable to the commission, providing indemnity or reimbursement against the cost of health care services provided by the health maintenance organization.

"Group contract" means a contract for health care services issued by a health maintenance organization, which by its terms limits the eligibility of subscribers and enrollees to a specified group.

"Health care plan" means an arrangement in which a person undertakes to provide, arrange for, pay for, or reimburse a part of the cost of health care services. A significant part of the arrangement shall consist of arranging for or providing health care services, including emergency services and services rendered by nonparticipating referral providers, as distinguished from mere indemnification against the cost of the services, on a prepaid basis. For purposes of this chapter, a significant part shall mean at least 90% of total costs of health care services.

"Health care services" means the furnishing of services to an individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability.

"Health maintenance organization" means a person who undertakes to provide or arrange for one or more health care plans. A health maintenance organization is deemed to be offering one or more managed care health insurance plans and is subject to Chapter 58 (§ 38.2-5800 et seq.) of Title 38.2 of the Code of Virginia.

"Limited health care services" means dental care services, vision care services, mental health services, substance abuse services, pharmaceutical services, and other services as may be determined by the commission to be limited health care services. Limited health care services shall not include hospital, medical, surgical or emergency services unless the services are provided [~~incident~~ incidental] to the limited health care services set forth in the preceding sentence.

"Medical necessity" or "medically necessary" means appropriate and necessary health care services that are rendered for a condition which, according to generally accepted principles of good medical practice, requires the diagnosis or direct care and treatment of an illness, injury, or pregnancy-related condition, and are not provided only as a convenience.

"NAIC" means the National Association of Insurance Commissioners.

"Net worth" or "capital and surplus" means the excess of total admitted assets over the total liabilities of the health maintenance organization, provided that surplus notes shall be reported and accounted for in accordance with [~~guidance set forth in the NAIC Accounting Practices and Procedures Manual, March 2004~~ § 38.2-4300 of the Code of Virginia ].

"Nonparticipating referral provider" means a provider who is not a participating provider but with whom a health maintenance organization has arranged, through referral by its participating providers, to provide health care services to enrollees. Payment or reimbursement by a health maintenance organization for health care services provided by nonparticipating referral providers may exceed 5.0% of total costs of health care services, only to the extent that any excess payment or reimbursement over 5.0% shall be combined with the costs for services that represent mere indemnification, with the combined amount subject to the combination of limitations set forth in this definition and in this section's definition of health care plan.

"Out-of-area services" means the health care services that the health maintenance organization covers when its members are outside the geographical limits of the health maintenance organization's service area.

"Participating provider" [ or "affiliated provider" ] means a provider who has agreed to provide health care services to enrollees and to hold those enrollees harmless from payment with an expectation of receiving payment, other than copayments or deductibles, directly or indirectly from the health maintenance organization.

"Primary care physician" means a physician who provides initial and primary care to enrollees; who supervises, coordinates, and maintains continuity of patient care; and who [ ~~initiates~~ may initiate ] referrals for specialist care [ , if referrals are a requirement of the enrollee's health care coverage ].

"Provider" or "health care provider" means a physician, hospital, or other person that is licensed or otherwise authorized [~~in the Commonwealth~~] to furnish health care services.

"Service area" means a clearly defined geographic area in which the health maintenance organization has directly or indirectly arranged for the provision of health care services to be generally available and readily accessible to enrollees.

"Specialist" means a licensed health care provider to whom an enrollee may be referred by his primary care physician and who is certified or eligible for certification by the appropriate specialty board, where applicable, to provide health care services in a specialized area of health care.

"Subscriber" means a contract holder, an individual enrollee, or the enrollee in an enrolled family who is responsible for payment to the health maintenance organization or on whose behalf the payment is made.

"Supplemental health care services" means health care services that may be offered by a health maintenance organization in addition to the required basic health care services. [~~Supplemental health care services shall not include limited health care services or out-of-area services.~~]

"Surplus notes" means those instruments that meet the requirements of 14 VAC 5-211-40.

PART II.

FINANCIAL CONDITION REQUIREMENTS.

**14 VAC 5-211-30. Covered and uncovered expenses.**

A. Health maintenance organizations licensed in this Commonwealth shall report to the commission on a form prescribed by the commission all uncovered expenses for the three-month periods ending on December 31, March 31, June 30, and September 30 on or before March 1, May 15, August 15, and November 15, respectively, of each year. This statement of covered and uncovered expenses shall be filed with each annual and quarterly financial statement pursuant to § 38.2-4307.1 C of the Code of Virginia.

B. Each expense of a health maintenance organization that is owed or paid to a health care provider under contract with a health maintenance organization shall be considered a covered health care expense by that health maintenance organization if (i) the contract between the health maintenance organization and the health care provider contains the hold harmless clause required by § 38.2-5805 C 9 of the Code of Virginia and (ii) the expense falls within the scope of the hold harmless clause.

C. If there is an intermediary organization between the health maintenance organization and the health care providers, the hold harmless clause shall be amended to include nonpayment by either the health maintenance organization or the intermediary organization. The hold harmless clause shall be included in any contract between the intermediary organization and health care providers and in any contract between the health maintenance organization and the intermediary organization before health care expenses owed or paid to the intermediary organization shall be considered covered expenses.

D. A health maintenance organization may request permission from the commission to treat other types of expenses as covered expenses. The request shall be in writing and state the health maintenance organization's justification for the requested treatment. In no case shall a health maintenance organization treat an expense, other than those set forth in subsections B and C of this section, as a covered expense without the prior approval of the commission.

E. Each expense that is not a covered expense under this section shall be considered an uncovered expense.

**14 VAC 5-211-40. Surplus notes.**

For the purpose of recognizing surplus notes, no debt shall be considered subordinated unless (i) it qualifies for recognition as a surplus note and can be reported as surplus (equity) [~~under the Statement of Statutory Accounting Principles No. 41 of the NAIC Accounting Practices and Procedures Manual in accordance with § 38.2-4300 of the Code of Virginia~~], and (ii) the subordination clause set forth below is executed by the health maintenance organization and the lender.

Subordination Clause

The rights of [lender] to the principal sum and/or accrued interest thereon are and shall remain subject to and subordinate to all other liabilities of [health maintenance organization], and, upon the dissolution or liquidation of [health maintenance organization], no payment upon this instrument shall be made until all other liabilities of the plan shall have been paid. It is further agreed to by and between the parties hereto that written approval from the State Corporation Commission must be obtained prior to any repayment of principal or payment of interest.

**14 VAC 5-211-50. Financial projections.**

The commission may require a health maintenance organization licensed in Virginia to submit to it periodic updates of the projection of operating results required by § 38.2-4301 B 10 of the Code of Virginia. Each update shall also include a complete explanation of any significant variance between actual operating results and the operating results that were forecasted under the projection last submitted to the commission and documentation of all critical assumptions. Critical assumptions include, but are not limited to, enrollment levels, premium rates, provider reimbursements, utilization rates, risk-sharing arrangements with providers, general and administrative expenses, excess and other insurance expenses and recoveries, coordination of benefits, costs of long-term financing, and inflation. The commission may revise or request a revision of any financial projection that it deems to be unreasonable relative to the health maintenance organization's historic performance.

**[ 14 VAC 5-211-60. Removal or transfer of property.**

~~A. A health maintenance organization domiciled in this Commonwealth shall not remove from this Commonwealth its entire property or business, or substantially all of its property or business, without the prior written approval of the commission.~~

~~B. A health maintenance organization shall not transfer or attempt to transfer substantially its entire property, or enter~~

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~~into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other company without having first obtained the written approval of the commission.~~

~~C. A health maintenance organization meeting the definition of nonprofit entity in § 55-531 of the Code of Virginia shall also comply with Chapter 30 (§ 55-531 et seq.) of Title 55 of the Code of Virginia.~~

## PART III. CONTRACT REQUIREMENTS.

### **[ ~~14 VAC 5-211-70~~ 14 VAC 5-211-60 ]. Filing requirements.**

A. A contract, evidence of coverage, or amendment shall not be delivered or issued for delivery in this Commonwealth until a copy of the form or amendment has been filed with and approved by the commission pursuant to § 38.2-4306 of the Code of Virginia. The contract, evidence of coverage, or amendment shall be identified by a form number in the lower left-hand corner of the first page. If the commission does not disapprove a form within 30 days of its filing, it shall be deemed approved unless the filer is notified in writing that this period is extended by the commission for an additional 30 days.

B. A schedule of charges or amendment shall not be put into effect in conjunction with a health care plan until a copy of the schedule or amendment has been filed with the commission pursuant to § 38.2-4306 of the Code of Virginia.

### **[ ~~14 VAC 5-211-80~~ 14 VAC 5-211-70 ]. Conversion of coverage.**

A. A health care plan shall offer to its ~~[ enrollees, upon termination of coverage~~ group contract holders, for an enrollee whose eligibility for coverage terminates ] under [ a the ] group contract, ~~[ the right to convert coverage, within 31 days after termination of coverage, to an individual contract. The converted coverage~~ the options to convert to an individual policy or continue coverage as set forth in this section. The group contract holder shall select one of the following options ]:

1. ~~Shall provide~~ Conversion of coverage within 31 days after termination of the enrollee's coverage under the group contract, to an individual contract that provides ] benefits which, at a minimum, meet the requirements of basic or limited health care services as applicable, in accordance with this chapter. ~~[ 2. Shall~~ Coverage shall ] not be refused on the basis that the enrollee no longer resides or is employed in the health maintenance organization's service area. ~~[ B. ]~~ The conversion contract shall cover the enrollee covered under the group contract as of the date of termination of the enrollee's coverage under the group contract. Coverage shall be provided without additional evidence of insurability, and no preexisting condition limitations or exclusions may be imposed other than those remaining unexpired under the contract from which conversion is exercised. A probationary or waiting period set forth in the conversion contract shall be deemed to commence on the effective date of coverage under the original contract.

[ 2. Continuation of coverage under the existing group contract for a period of at least 90 days immediately following the date of termination of the enrollee's eligibility for coverage under the group policy. Coverage shall be provided without additional evidence of insurability. The premium for continuing group coverage shall be at the current rate applicable to the group contract. ]

[ ~~G. B. ] A conversion contract [ or continuation of coverage ] shall not be required to be made available when:~~

1. The enrollee is covered by or is eligible for benefits under Title XVIII of the Social Security Act (42 USC § 1395 et seq.) known as Medicare;

2. The enrollee is covered by or is eligible for substantially the same level of hospital, medical, and surgical benefits under state or federal law;

3. The enrollee is covered by substantially the same level of ~~[ hospital, medical, and surgical ]~~ benefits under any policy, contract, or plan for individuals in a group;

4. The enrollee has not been continuously covered during the three-month period immediately preceding the enrollee's termination of coverage;

5. The enrollee was terminated by the health care plan for any of the reasons stated in 14 VAC 5-211-230 A 1, 2, 3, or 6; or

6. The enrollee was terminated from a plan administered by the Department of Medical Assistance Services that provided benefits pursuant to Title XIX or XXI of the Social Security Act (42 USC § 1396 et seq. or § 1397 aa et seq.).

### **[ ~~14 VAC 5-211-90~~ 14 VAC 5-211-80 ]. Coordination of benefits.**

A. A health care plan may include in its group or individual contract a provision that the value of any benefit or service provided by the health maintenance organization may be coordinated with other health insurance or health care benefits or services that are provided by other group policies, group contracts, or group health care plans, including coverage provided under governmental programs, so that no more than 100% of the eligible incurred expenses is paid.

B. A health care plan shall not be relieved of its duty to provide a covered health care service to an enrollee because the enrollee is entitled to coverage under other policies, contracts, or health care plans. In the event that benefits are provided by a health care plan and another policy, contract, or health care plan, the determination of the order of benefits shall in no way restrict or impede the rendering of services required to be provided by the health care plan. The health maintenance organization shall be required to provide or arrange for the service first and then, at its option, seek coordination of benefits with any other health insurance or health care benefits or services that are provided by other group policies, group contracts, or group plans. ~~[ The health maintenance organization shall not deny the claim while a coordination of benefits determination is pending~~ Until a coordination of benefits determination is made, the enrollee shall not be held liable for the cost of covered services provided ].

**[ ~~14 VAC 5-211-100~~ 14 VAC 5-211-90 ]. Copayments.**

A. A health maintenance organization may require a reasonable copayment of enrollees as a condition for the receipt of a specific health care service. ~~[ Copayments A copayment ] shall be shown in the evidence of coverage as either a specified dollar amount or as [ a percentage of the cost of providing the service for each specific health care service for which the health maintenance organization requires a copayment, but in no event shall both a dollar amount and a percentage of cost be applied to a specific health care service coinsurance ].~~

B. If the health maintenance organization has an established copayment maximum, it shall keep accurate records of each enrollee's copayment expenses and notify the enrollee when his copayment maximum is reached. The notification shall be given no later than 30 days after the [ health maintenance organization has processed sufficient claims to determine that the ] copayment maximum is reached. The health maintenance organization shall not charge additional copayments for the remainder of the contract or calendar year, as appropriate. The health maintenance organization shall also promptly refund to the enrollee all copayments charged after the copayment maximum is reached. Any maximum copayment amount shall be shown in the evidence of coverage as a specified dollar amount, and the evidence of coverage shall clearly state the health maintenance organization's procedure for meeting the requirements of this subsection.

C. The provisions of this subsection shall not apply to any Family Access to Medical Insurance Security (FAMIS) Plan (i) authorized by the United States Centers for Medicare and Medicaid Services pursuant to Title XXI of the Social Security Act (42 USC § 1397aa et seq.) and the state plan established pursuant to Chapter 13 (§ 32.1-351 et seq.) of Title 32.1 of the Code of Virginia and (ii) underwritten by a health maintenance organization.

**[ ~~14 VAC 5-211-110~~ 14 VAC 5-211-100 ]. Deductibles.**

A. A health maintenance organization may require an enrollee to pay a reasonable annual deductible ~~[ , per calendar year or per contract year, for health care services, not to exceed the maximum annual deductibles permissible for health plans offered in conjunction with plans made available pursuant to 26 USC § 220 or any successor to it. If the federal program for these plans is terminated, the health maintenance organization may offer plans with deductibles that do not exceed those permitted for the last year in which the federal program was in effect, plus \$50 per calendar year thereafter in accordance with § 38.2-4303 A 8 of the Code of Virginia ].~~

B. Deductibles for basic health care services shall be considered unreasonable in [ at least ] the following situations:

1. When ~~[ a provider affiliated with a health maintenance organization directs an enrollee of the health maintenance organization to utilize emergency room or ambulance services accessibility to health care is adversely affected ];~~

2. When a health maintenance organization cannot demonstrate an ability to monitor and implement deductible plans;

3. If the health maintenance organization's Risk Based Capital (RBC) level is in a Company Action Level pursuant to the provisions of § 38.2-5503 of the Code of Virginia. The commission shall determine the RBC level from (i) the most recently filed year end RBC Report submitted to the commission, or (ii) the most recently filed quarterly projected RBC Report if the health maintenance organization is on a quarterly projected RBC reporting basis. If at any time a RBC Report is filed with the commission that reports a RBC level below the Company Action Level, the health maintenance organization shall immediately suspend writings of all new deductible policies until a subsequent RBC Report is filed and accepted by the commission that confirms a RBC level above the Company Action Level.

**[ ~~14 VAC 5-211-120~~ 14 VAC 5-211-110 ]. Description of providers.**

A list of the names and locations of all ~~[ affiliated participating ]~~ providers shall be provided in accordance with § 38.2-3407.10 G of the Code of Virginia.

**[ ~~14 VAC 5-211-130~~ 14 VAC 5-211-120 ]. Description of service area.**

A description of the service area in which the health maintenance organization shall provide health care services shall be provided to subscribers by the health maintenance organization at the time of enrollment or at the time the contract or evidence of coverage is issued and shall be made available upon request or at least annually.

**[ ~~14 VAC 5-211-140~~ 14 VAC 5-211-130 ]. Extension of benefits [ for total disability ].**

A. A group contract issued by a health maintenance organization shall contain a reasonable extension of benefits upon discontinuance of the group contract with respect to members who become totally disabled while enrolled under the contract and who continue to be totally disabled at the date of discontinuance of the contract.

B. Upon payment of premium, coverage shall remain in full force and effect for a reasonable period of time not less than 180 days, or until the member is no longer totally disabled, or a succeeding carrier elects to provide replacement coverage to that member without limitation as to the disabling condition.

C. Upon termination of the extension of benefits, the enrollee shall have the right to convert [ or continue ] coverage as provided for in [ ~~subsection A of this section~~ 14 VAC 5-211-70 ].

[ D. The provisions of this section shall not apply to contracts entered into by any health maintenance organization that has contracted with the Virginia Department of Medical Assistance Services to provide health care services to recipients of medical assistance services pursuant to Title XIX of the Social Security Act, as amended, or to individuals covered by the Family Access to Medical Insurance Security Insurance (FAMIS) plan developed pursuant to Title XXI of the Social Security Act, as amended. ]

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**[ ~~14 VAC 5-211-150~~ 14 VAC 5-211-140 ]. Freedom of choice.**

A. At the time of enrollment an enrollee shall have the right to select a primary care physician from among the health maintenance organization's affiliated primary care physicians, subject to availability.

B. An enrollee who is dissatisfied with his primary care physician shall have the right to select another primary care physician from among the health maintenance organization's affiliated primary care physicians, subject to availability. The health maintenance organization may impose a reasonable waiting period for this transfer.

**[ ~~14 VAC 5-211-160~~ 14 VAC 5-211-150 ]. Grievance procedure.**

A. A health maintenance organization shall establish and maintain a grievance or complaint system to provide reasonable procedures for the prompt and effective resolution of written complaints in accordance with Chapter 5 (§ 32.1-137.1 et seq.) of Title 32.1 and Chapters 58 (§ 38.2-5800 et seq.) and 59 (§ 38.2-5900 et seq.) of Title 38.2 of the Code of Virginia. A record of all written complaints shall be maintained for the period specified in § 38.2-511 of the Code of Virginia.

B. Pending the resolution of a written complaint filed by a subscriber or enrollee, coverage may not be terminated for the subscriber or enrollee for any reason that is the subject of the written complaint, except where the health maintenance organization has in good faith made an effort to resolve the complaint and coverage is being terminated in accordance with 14 VAC 5-211-230.

PART IV.  
SERVICES.

**[ ~~14 VAC 5-211-170~~ 14 VAC 5-211-160 ]. Basic [ and limited ] health care services.**

[ ~~A.~~ ] A health maintenance organization shall provide, or arrange for the provision of, as a minimum, basic health care services [ ~~or limited health care services in accordance with the health maintenance organization's license.~~ ~~B. Basic health care.~~ These ] services shall include the following:

1. Inpatient hospital and physician services. Medically necessary hospital and physician services affording inpatient treatment to enrollees in a licensed hospital for a minimum of 90 days per contract or calendar year. Hospital services include room and board; general nursing care; special diets when medically necessary; use of operating room and related facilities; use of intensive care unit and services; x-ray, laboratory, and other diagnostic tests; drugs, medications, biologicals, anesthesia, and oxygen services; special duty nursing when medically necessary; short-term physical therapy, radiation therapy, and inhalation therapy; administration of whole blood and blood plasma; and short-term rehabilitation services. Physician services include medically necessary health care services performed, prescribed, or supervised by physicians within a hospital for registered bed patients;

2. Outpatient medical services. Medically necessary health care services performed, prescribed or supervised by

physicians for enrollees, which may be provided in a nonhospital based health care facility, at a hospital, in a physician's office, or in the enrollee's home, and shall include consultation and referral services. Outpatient medical services shall also include diagnostic services, treatment services, short-term physical therapy and rehabilitation services the provision of which the health maintenance organization determines can be expected to result in the significant improvement of a member's condition within a period of 90 days, laboratory services, x-ray services, and outpatient surgery;

3. Diagnostic laboratory and diagnostic and therapeutic radiologic services;

4. Preventive health services. Services provided with the goal of early detection and minimization of the ill effects and causes of disease or disability, including well-child care from birth, eye and ear examinations for children age 17 and under to determine the need for vision and hearing correction, periodic health evaluations, and immunizations;

5. In-area and out-of-area emergency services, including medically necessary ambulance services, available on an inpatient or an outpatient basis 24 hours per day, seven days per week;

[ ~~6. Medically necessary obstetrical services, including prenatal and postpartum care, to the extent these services otherwise qualify in this section; ]~~

[ ~~7. 6. ] Medically necessary services for the treatment of biologically based mental illnesses as defined in § 38.2-3412.1:01 of the Code of Virginia. [ ~~Nonbiologically based Treatment for all other~~ ] mental health and substance abuse services shall at a minimum include [ ~~these services mandated for insurance carriers pursuant to Chapter 34 (§ 38.2-3400 et seq.) of Title 38.2 of the Code of Virginia;~~ ]~~

a. Inpatient services or partial hospitalization for an adult for a minimum period of 20 days per enrollee per contract year;

b. Inpatient services or partial hospitalization for a child or adolescent for a minimum period of 25 days per enrollee per contract year;

c. Twenty outpatient visits per enrollee per contract year. A medication management visit shall be covered in the same manner as a medication management visit for the treatment of a physical illness and shall not be counted as an outpatient treatment visit in the calculation of the benefit set forth in this subdivision.

The limits of the benefits set forth in this subdivision shall not be more restrictive than for any other illness, however, the coinsurance applicable to any outpatient visit beyond the first five visits covered per contract year shall not exceed 50%. If all covered expenses for outpatient services apply toward any deductible required by a policy or contract, the visit shall not count toward the outpatient visit benefit maximum set forth in the policy or contract. Definitions set forth in § 38.2-3412.1 of the Code of Virginia shall be applicable to terms used in this subsection. ]

[ 8- 7. ] Medically necessary dental services as a result of accidental injury [ , regardless of the date of such injury]. Contracts may require that treatment be sought within 60 days of the accident for injuries occurring on or after the effective date of coverage.

~~[ C. Limited health care services, and services not required to be provided as basic health care services, for the purpose of this section, include but are not limited to:~~

~~1. Routine eye examinations or refractions, including examinations for astigmatism, myopia, or hyperopia; and eye glasses or contact lenses resulting from routine eye examinations, except as required by subdivision B 4 of this section;~~

~~2. Dental services. Medically necessary dental services as a result of accidental injury shall be included in a limited dental services plan. Contracts may require that treatment be sought within 60 days of the accident for injuries occurring on or after the effective date of coverage;~~

~~3. Prescription drugs; and~~

~~4. Long term physical therapy and rehabilitation.~~

~~**14 VAC 5-211-180. Out-of-area services.**~~

~~In addition to out-of-area emergency services required to be provided as basic health care services, a health maintenance organization may offer to its enrollees indemnity benefits covering out-of-area services. A description of the procedure for obtaining out-of-area services and notification requirements before obtaining these services shall be included in the evidence of coverage as well as a description of restrictions or limitations on out-of-area services. A health care plan that requires the enrollee to contact the health maintenance organization before obtaining out-of-area services shall provide for emergency telephone consultation on a 24-hour per day, seven-day per week basis. ]~~

~~[ **14 VAC 5-211-190 14 VAC 5-211-170**]. Supplemental health care services.~~

~~In addition to the basic health care services required to be provided in [ 14 VAC 5-211-170-B 14 VAC 5-211-160 ], a health maintenance organization may offer to its enrollees any supplemental health care services it chooses to provide. These services may be limited as to time and cost [ and are not subject to copayment and deductible limitations applicable to basic health care services ].~~

~~[ **14 VAC 5-211-180. Out-of-area services.**~~

~~In addition to out-of-area emergency services required to be provided as basic health care services, a health maintenance organization may offer to its enrollees indemnity benefits covering out-of-area services. A description of the procedure for obtaining out-of-area services and notification requirements before obtaining these services shall be included in the evidence of coverage as well as a description of restrictions or limitations on out-of-area services. A health care plan that requires the enrollee to contact the health maintenance organization before obtaining out-of-area services shall provide for emergency telephone consultation on a 24-hour per day, seven-day per week basis.~~

**14 VAC 5-211-190. Limited health care services.**

A health maintenance organization offering only limited health care services shall provide, or arrange for the provision of, at least one of the following services:

1. Dental care services;
2. Vision care services;
3. Mental health services;
4. Substance abuse services;
5. Pharmaceutical services;
6. Other services as may be determined by the commission. ]

**14 VAC 5-211-200. Essential and standard benefit plans.**

Health maintenance organizations offering the essential or standard health benefit plans shall offer the benefits specified in 14 VAC 5-234-50 and 14 VAC 5-234-60 for these plans.

PART V.  
DISCLOSURE AND PROHIBITIONS.

**14 VAC 5-211-210. Disclosure requirements.**

A. A subscriber shall be entitled to an evidence of coverage under a health care plan provided by a health maintenance organization established or operating in this Commonwealth, including any amendments to it. The evidence of coverage [ excluding the identification card ] shall be delivered or issued for delivery within a reasonable period of time after enrollment, but not more than 60 days from the later of the effective date of coverage or the date on which the health maintenance organization is notified of enrollment. [ The identification card shall be delivered or issued for delivery within 15 days from the later of the effective date of coverage or the date on which the health maintenance organization is notified of enrollment. ]

B. An evidence of coverage delivered or issued for delivery shall contain the following:

1. The name, address, and telephone number of the health maintenance organization;
2. The health care services and other benefits to which the enrollee is entitled under the health care plan;
3. Exclusions or limitations on the services, kind of services, benefits, or kind of benefits to be provided, including any deductible or copayment features;
4. Where and in what manner information is available as to how services may be obtained;
5. The effective date and the term of coverage;
6. The total amount of payment for health care services and any indemnity or service benefits that the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan is contributory or noncontributory for group certificates;
7. A description of the health maintenance organization's method of resolving enrollee complaints, including a description of any arbitration procedure if complaints and

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# Final Regulations

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*grievances may be resolved through a specified arbitration agreement;*

*8. A list of providers and a description of the service area that shall be provided with the evidence of coverage if the information is not given at the time of enrollment;*

*9. The right of an enrollee to convert to an individual contract issued by the health maintenance organization [ or to continue group coverage, as applicable ], including the terms and conditions under which coverage may be converted [ or continued ];*

*10. The terms and conditions under which coverage may be terminated;*

*11. Coordination of benefits provisions, if applicable;*

*12. Assignment restrictions in the contract;*

*13. The health maintenance organization's procedure for filing claims, including any requirements for notifying the health maintenance organization of a claim and requirements for filing proof of loss;*

*14. The health maintenance organization's eligibility requirements, including the conditions under which dependents may be added and the limiting age for dependents and subscribers covered under an individual or group contract;*

*15. An incontestability clause that states that, in the absence of fraud, all statements made by a subscriber shall be considered representations and not warranties and that no statement shall be the basis for voiding coverage or denying a claim after the contract has been in force for two years from its effective date, unless the statement was material to the risk and was contained in a written application;*

*16. A provision that the contract or evidence of coverage and any amendments to it constitutes the entire contractual agreement between the parties involved and that no portion of the charter, bylaws, or other document of the health maintenance organization shall constitute part of the contract unless it is set forth in full in the contract; and*

*17. Except for an evidence of coverage that does not provide for the periodic payment of premium or for the payment of any premium, a provision [ ~~for a 31-day grace period for the payment of any premium falling due after the first premium during which coverage remains in effect, including a statement that if payment is not received within the 31 days, coverage may be cancelled after the 31st day and the terminated members may be held liable for the health maintenance organization's cost of services received during the grace period that the contract holder is entitled to a grace period of not less than 31 days for the payment of any premium due except the first premium.~~ The provision shall also state that during the grace period the coverage shall continue in force unless the contract holder has given the health maintenance organization written notice of discontinuance in accordance with the terms of the contract and in advance of the date of discontinuance. The contract may provide that the contract holder shall be liable to the health maintenance organization for the payment of a pro*

*rata premium for the time the contract was in force during the grace period ].*

## **14 VAC 5-211-220. Exclusions for preexisting conditions.**

*In addition to the limitations on preexisting conditions exclusions set forth in §§ 38.2-3432.3 and 38.2-3514.1 of the Code of Virginia, a health maintenance organization shall not exclude or limit health care services for a preexisting condition when the enrollee transfers coverage from one health care plan to another during open enrollment or when the enrollee converts coverage under his conversion option, except to the extent that a preexisting condition limitation or exclusion remains unexpired under the original contract. Any required probationary or waiting period is deemed to commence on the effective date for individual coverage, and on the enrollment date of the contract for group coverage.*

## **14 VAC 5-211-230. Reasons for termination.**

*A. A health maintenance organization shall not terminate an enrollee's coverage for services provided under a health maintenance organization contract except for one or more of the following reasons:*

*1. Failure to pay the amounts due under the contract, including failure to pay a premium [ ~~or copayment~~ ] required by the contract as shown in the contract or evidence of coverage;*

*2. Fraud or [ ~~deception~~ material misrepresentation in enrollment or ] in the use of services or facilities;*

*3. Material violation of the terms of the contract;*

*4. Failure to meet the eligibility requirements under a group contract, provided that a conversion [ or continuation ] option is offered;*

*5. Termination of the group contract under which the enrollee was covered; or*

*6. Other good cause as agreed upon in the contract between the health care plan and the group or the subscriber. Coverage shall not be terminated on the basis of the status of the enrollee's health or because the enrollee has exercised his rights under the plan's grievance system by registering a complaint against the health maintenance organization. Failure of the enrollee and the primary care physician to establish a satisfactory relationship shall not be deemed good cause unless the health maintenance organization has in good faith made an effort to provide the opportunity for the enrollee to establish a satisfactory patient-physician relationship, including assigning the enrollee to other primary care physicians from among the organization's [ ~~affiliated~~ participating ] providers.*

*B. A health maintenance organization shall not terminate coverage for services provided under a contract without giving the subscriber written notice of termination, effective at least 31 days from the date of mailing or, if not mailed, from the date of delivery, except that:*

*1. For termination due to nonpayment of premium, the grace period as required in 14 VAC 5-211-210 B 17 shall apply;*



2. For termination due to nonpayment of premium by an employer, the notice provisions required in § 38.2-3542 C of the Code of Virginia shall apply;

3. For termination due to activities that endanger the safety and welfare of the health maintenance organization or its employees or providers, immediate notice of termination may be given; or

4. For termination due to change of eligibility status, immediate notice of termination may be given.

**14 VAC 5-211-240. Unfair discrimination.**

A. A health maintenance organization shall not unfairly discriminate against an enrollee on the basis of the age, sex, health status, race, color, creed, national origin, ancestry, religion, marital status, or lawful occupation of the enrollee, or because of the frequency of utilization of services by the enrollee. However, nothing shall prohibit a health maintenance organization from setting rates or establishing a schedule of charges in accordance with relevant actuarial data.

B. A health maintenance organization shall not unreasonably discriminate against physicians as a class or any class of providers listed in § 38.2-4221 of the Code of Virginia when contracting for specialty or referral practitioners, provided the plan covers services that the class of providers are licensed to render. Nothing in this section shall prevent a health maintenance organization from selecting, in the judgment of the health maintenance organization, the number of providers necessary to render the services offered by the health maintenance organization, or from limiting certain specialty services to particular types of practitioners, provided these services are within the scope of their license.

PART VI.  
GENERAL PROVISIONS.

**14 VAC 5-211-250. Conformity with state law.**

A contract or evidence of coverage that contains a provision that conflicts with the requirements of this chapter or the provisions of Chapter 43 (§ 38.2-4300 et seq.) or Chapter 58 (§ 38.2-5800 et seq.) of Title 38.2 of the Code of Virginia shall not be rendered invalid but shall be construed and applied as if it were in full compliance with the requirements of this chapter and Chapters 43 and 58 of Title 38.2 of the Code of Virginia.

**14 VAC 5-211-260. Penalties.**

Any violation of this chapter shall be punished pursuant to § 38.2-218 of the Code of Virginia and any other applicable law of this Commonwealth.

**14 VAC 5-211-270. Controversies involving contracts.**

The commission shall have no jurisdiction to adjudicate controversies between a health maintenance organization and its enrollees. A breach of contract shall not be deemed a violation of this chapter.

**14 VAC 5-211-280. Severability.**

If any provision of this chapter or its application to any person or circumstance is for any reason held to be invalid, the

remainder of the chapter and the application of the provisions to other persons or circumstances shall not be affected.

DOCUMENTS INCORPORATED BY REFERENCE

*Accounting Practices and Procedures Manual, Volumes I and II, March 2004, National Association of Insurance Commissioners.*

VA.R. Doc. No. R04-279; Filed June 27, 2005, 1:47 p.m.

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**TITLE 18. PROFESSIONAL AND  
OCCUPATIONAL LICENSING**

**BOARD OF MEDICINE**

Title of Regulation: **18 VAC 85-80. Regulations Governing the Practice of Occupational Therapy (adding 18 VAC 85-80-61).**

Statutory Authority: §§ 54.1-2400, 54.1-2956.1 and 54.1-2956.5 of the Code of Virginia.

Effective Date: August 24, 2005.

Agency Contact: William L. Harp, M.D., Executive Director, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, or e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

Summary:

*The amendment requires a person who calls himself an occupational therapy assistant or uses the designation of O.T.A. or any derivation thereof to hold the credential for a Certified Occupational Therapy Assistant issued by the National Board for Certification in Occupational Therapy.*

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

**18 VAC 85-80-61. Certification of occupational therapy assistants.**

*Effective July 26, 2005, a person who holds himself out to be or advertises that he is an occupational therapy assistant or uses the designation "O.T.A." or any variation thereof shall have obtained initial certification by the National Board for Certification in Occupational Therapy (NBCOT) as a certified occupational therapy assistant.*

VA.R. Doc. No. R04-267; Filed June 30, 2005, 10:06 a.m.

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# FAST-TRACK REGULATIONS

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Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF VETERINARY MEDICINE

**Title of Regulation:** 18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine (amending 18 VAC 150-20-195).

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

**Public Hearing Date:** August 10, 2005 - 9 a.m.

Public comments may be submitted until September 23, 2005.

(See Calendar of Events section for additional information)

**Effective Date:** October 8, 2005.

**Agency Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, e-mail elizabeth.carter@dhp.virginia.gov.

**Basis:** Section 54.1-2400 of the Code of Virginia provides the Board of Veterinary Medicine the authority to promulgate regulations to administer the regulatory system.

**Purpose:** At its February 3, 2005, meeting, the Virginia Board of Veterinary Medicine discussed a concern raised by the owner of a kitten that had been vaccinated for rabies six days prior to being bitten by an unidentified animal. This owner had not been made aware that it would require 28 days before her kitten's inoculation would be considered by health officials to be effective. She was informed that her kitten would either need to be quarantined for six months or euthanized.

In consideration of the seriousness of rabies and the fact that the general public is most likely unaware of having to wait 28 days before a rabies vaccination is effective, the board voted unanimously to amend its regulations to ensure that licensees act on the need to inform clients of the waiting period. It determined that for all initial rabies inoculations, the rabies certificate should contain the following language:

*An animal is not considered immunized for least 28 days after the initial or primary vaccination is administered.*

The information was drawn from the U.S. Centers for Disease Control's latest recommendation and report relating to rabies in their *Compendium of Animal Rabies Prevention and Control, 2004* under "Control Methods in Domestic and Confined Animals, Pre-exposure Vaccination and Management."

If an owner is unaware of the 28-day waiting period and allows his animal to interact with other persons or animals, both the animal and the general public may be at risk.

**Substance:** The proposed fast-track action amends requirements for recordkeeping found in 18 VAC 150-20-195. The action will add subsection E to require that an initial rabies certificate for an animal receiving a primary rabies vaccination shall clearly display the following information: "An animal is not considered immunized for at least 28 days after the initial or primary vaccination is administered."

**Issues:** There are no disadvantages to the public of this amendment. By clearly displaying the information about a 28-day waiting period for the rabies vaccination, the public and the animals are clearly better protected. Without the regulation, veterinarians who fail to provide that information or disclosure would not be in violation of a law or regulation. With the fast-track action, there is a clear standard by which to hold a veterinarian accountable. Disclosure of information serves public health and safety.

There are no disadvantages to the agency or the Commonwealth; the proposed regulation will place board policy in regulation and thereby make it enforceable.

**Rationale for using fast track process:** The fast-track process is being used to promulgate the amendments to add a regulatory standard for disclosure to consumers about the 28-day waiting period for the effectiveness of a rabies inoculation. Since this is a public health and safety issue, and since the standard of care should be to notify consumers who bring their animals to a veterinarian for a rabies vaccination of the waiting period, the board believes the fast-track action is warranted.

**Department of Planning and Budget Economic Impact Analysis:** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Veterinary Medicine (board) proposes to require that for all initial rabies inoculations, the rabies certificate shall contain the following language: "An animal is not considered immunized for at least 28 days after the initial or primary vaccination is administered."

Estimated economic impact. At its February 3, 2005, meeting, the board discussed a concern raised by the owner of a kitten that had been vaccinated for rabies six days prior to being bitten by an unidentified animal. The owner had not been made aware that it would require 28 days before her kitten's inoculation would be considered by health officials to be

effective. She was informed that her kitten would either need to be quarantined for six months or euthanized.

In consideration of the seriousness of rabies and the fact that the public is most likely unaware of having to wait 28 days before a rabies vaccination is effective, the board voted unanimously to amend its regulations to ensure that licensees act on the need to inform clients of the waiting period. It determined that for all initial rabies inoculations, the rabies certificate should contain the following language: "An animal is not considered immunized for at least 28 days after the initial or primary vaccination is administered." According to the Department of Health Professions, the additional disclosure may be handwritten, typed, or stamped on the certificate. Thus, the cost of compliance for veterinarians and their staff is small. As demonstrated by the case that was brought to the board's attention, the knowledge that animals are not considered immunized for at least 28-days after the initial or primary vaccination is administered can be quite valuable for animal owners. Many such owners would likely take some additional effort to keep their animals from exposure to wild animals during those 28 days if informed of the delay in effectiveness of the inoculation,<sup>1</sup> as well as the consequences of quarantine or euthanasia. It is not known how often veterinarians or their staff verbally communicate to the animal owner about the 28-day delay in effectiveness of the inoculation; but even for those that do, having the information visually presented will increase the probability that owners will absorb or pay attention to this information. The benefit of the potential for reduced exposure to rabid animals due to the likely increase in comprehension of the risks by animal owners, likely exceeds the small compliance costs for veterinarians and their staff. Thus, the proposed amendment to the regulations will likely produce a net benefit.

Businesses and entities affected. The proposed requirement potentially affects the 3,094 licensed veterinarians and 936 licensed veterinary technicians<sup>2</sup> in the Commonwealth, as well as their patients and their patients' owners.

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. The proposed amendment will not significantly affect employment levels.

Effects on the use and value of private property. Veterinarians or their staff will write, type or stamp "An animal is not considered immunized for at least 28 days after the initial or primary vaccination is administered" on rabies certificates. The cost of doing so is quite small and will not have a large impact on the value of the business.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis. The Board of Veterinary Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 150-20 for a fast-track change in the regulations.

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<sup>1</sup> Source for this data: the Department of Health Professions cites the U.S. Centers for Disease Control's latest recommendation and report relating to rabies in their *Compendium of Animal Rabies Prevention and Control, 2004* under "Control Methods in Domestic and Confined Animals, Pre-exposure Vaccination and Management."

<sup>2</sup> Source: Department of Health Professions.

## Summary:

*The amendment requires records created or maintained by a veterinarian to specify that for all initial rabies inoculations, the rabies certificate shall contain the following language: "An animal is not considered immunized for at least 28 days after the initial or primary vaccination is administered."*

### **18 VAC 150-20-195. Recordkeeping.**

A. A daily record of each patient treated shall be maintained by the veterinarian at the permitted veterinary establishment and shall include pertinent medical data such as drugs administered, dispensed or prescribed, and all relevant medical and surgical procedures performed.

B. Individual records shall be maintained on each patient, except that records for economic animals or litters of companion animals under the age of four months may be maintained on a per client basis. Client records shall be kept for a period of three years following the last office visit or discharge of such animal from a veterinary establishment.

C. An animal identification system must be used by the establishment.

D. Upon the sale or closure of a veterinary establishment involving the transfer of patient records to another location, the veterinarian shall follow the requirements for transfer of patient records in accordance with § 54.1-2405 of the Code of Virginia.

*E. An initial rabies certification for an animal receiving a primary rabies vaccination shall clearly display the following information: "An animal is not considered immunized for at least 28 days after the initial or primary vaccination is administered."*

VA.R. Doc. No. R05-252; Filed July 1, 2005, 3:49 p.m.

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# EMERGENCY REGULATIONS

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

Title of Regulation: **4 VAC 20-270. Pertaining to Crabbing (amending 4 VAC 20-270-30).**

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

Effective Dates: June 29, 2005, through July 28, 2005.

Agency Contact: Deborah Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail [debbie.cawthon@mrc.virginia.gov](mailto:debbie.cawthon@mrc.virginia.gov).

Summary:

*The emergency amendment establishes additional requirements that pertain to the crab pot or peeler pot fisherman granted the medical exception to the eight-hour daily time limit, including prohibition from using another licensed crab pot or peeler pot fisherman as a mate, provided, however, during the designated alternate work hours, only the crab pots or peeler pots of the fisherman receiving the exception shall be fished. Further, it shall be unlawful for the licensed crab fisherman, who has been granted an exception, or his mate, who is a licensed crab pot or peeler pot fisherman, to fish, set, retrieve, or bait, during the alternate work hours, any crab pot or peeler pot that is not owned and licensed by the fisherman granted the exception.*

#### **4 VAC 20-270-30. Daily time limits.**

A. It shall be unlawful for any person licensed to catch and sell crabs taken by crab pot or peeler pot to take and harvest crabs from any crab pot or peeler pot, or to retrieve, bait or set any crab pot or peeler pot, except during the lawful daily time periods described in this subsection or subsection B of this section. The lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot shall be from 6 a.m. to 2 p.m. during the months of April, September, October, and November and from 5 a.m. to 1 p.m. during the months of May, June, July, and August, except as specified in subsection B of this section. Crab pots or peeler pots already on board a boat at the end of the lawful daily time period, as defined in this subsection or subsection B of this section, may be set during the period starting immediately following the lawful daily time period and ending one hour after the lawful daily time period.

B. Any licensed crab pot or peeler pot fisherman who provides an opinion and supporting documentation from an attending physician to the commissioner of an existing medical condition that prevents him from adhering to the daily time limit established in subsection A of this section may be permitted by the commissioner or his designee to take and harvest crabs from his crab pot or peeler pot, or to retrieve, bait or set his crab pot or peeler pot during an alternate eight-hour daily time limit. That alternative eight-hour daily time limit will be

prescribed by the commissioner or his designee in accordance with the medical condition that forms a basis for the exception to the daily time limit as described in subsection A of this section.

*Nothing in this regulation shall prohibit any licensed crab pot or peeler pot fisherman, who has been granted an exception to the eight-hour work schedule, on a medical basis, from using another licensed crab pot or peeler pot fisherman as a mate, provided, however, during the designated alternate work hours, only the crab pots or peeler pots of the fisherman receiving the exception shall be fished. Further, it shall be unlawful for the licensed crab fisherman, who has been granted an exception, or his mate, who is a licensed crab pot or peeler pot fisherman, to fish, set, retrieve, or bait, during the alternate work hours, any crab pot or peeler pot that is not owned and licensed by the fisherman granted the exception.*

C. It shall be unlawful to take or harvest crabs by crab dredge between sunset and sunrise.

D. The lawful daily time periods for the commercial harvest of crabs by crab pot or peeler pot may be rescinded by the Commissioner of Marine Resources when he determines that a pending weather event is sufficient cause for the removal of crab pots from the tidal waters of the Commonwealth.

VA.R. Doc. No. R05-243; Filed June 29, 2005, 2:31 p.m.

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## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Regulations: **12 VAC 30-50. Amount, Duration and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-190).**

**12 VAC 30-141. Family Access to Medical Insurance Security Plan (amending 12 VAC 30-141-500).**

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 2005, through June 30, 2006.

Agency Contact: Tammy Driscoll, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-1567, FAX (804) 786-1680, or e-mail [tammy.driscoll@dmas.virginia.gov](mailto:tammy.driscoll@dmas.virginia.gov).

Preamble:

*The Administrative Process Act (§ 2.2-4011) states that an emergency situation is (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. This suggested*

emergency regulation meets the standard at § 2.2-4011 (i) of the Code of Virginia as discussed below.

*This regulatory action qualifies as an emergency because it is responding to a mandate in the 2005 Virginia Appropriation Act (Item 322 H) that states "The Department of Medical Assistance Services shall have the authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act, to effect this provision within 280 days or less from the enactment of this act." This change in the prior authorization of dental services is within this legislative authority.*

*The purpose of this regulatory action is to reshape the prior authorization regimen for dental services. Currently, the majority of dental services require prior authorization or prepayment review. These regulations will lead to fewer prior authorization requirements and enhance access to dental services for pediatric Medicaid recipients and for participants in the Family Access to Medical Insurance Security (FAMIS) program.*

## **12 VAC 30-50-190. Dental services.**

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

~~B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; dental sealants; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.~~

~~C. All covered dental services not referenced above B. Certain dental services as described in agency guidance documents require preauthorization or prepayment review by the state agency or its designee. The following services are also covered through preauthorization: medically necessary full banded orthodontics, for handicapping malocclusions, minor tooth guidance or repositioning appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges. The following service is not covered: routine bases under restorations and inhalation analgesia.~~

D. C. The state agency may place appropriate limits on a service based on medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray -two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once /five years); extractions, orthodontics, tooth guidance appliances, permanent crowns

and bridges, endodontics, patient education and sealants (once).

~~E. D. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare) and described in agency guidance documents, are covered for all recipients, and also require preauthorization or prepayment review by the state agency or its designee as described in agency guidance documents.~~

## **12 VAC 30-141-500. Benefits reimbursement.**

A. Reimbursement for the services covered under FAMIS fee-for-service and PCCM and MCHIPs shall be as specified in this section.

B. Reimbursement for physician services, surgical services, clinic services, prescription drugs, laboratory and radiological services, outpatient mental health services, early intervention services, emergency services, home health services, immunizations, mammograms, medical transportation, organ transplants, skilled nursing services, well baby and well child care, vision services, durable medical equipment, disposable medical supplies, dental services, case management services, physical therapy/occupational therapy/speech-language therapy services, hospice services, school-based health services, and certain community-based mental health services shall be based on the Title XIX rates.

C. Reimbursement to MCHIPs shall be determined on the basis of the estimated cost of providing the MCHIP benefit package and services to an actuarially equivalent population. MCHIP rates will be determined annually and published 30 days prior to the effective date.

D. Exceptions.

1. Prior authorization is required after five visits in a fiscal year for physical therapy, occupational therapy and speech therapy provided by home health providers and outpatient rehabilitation facilities and for home health skilled nursing visits. Prior authorization is required after five visits for outpatient mental health visits in the first year of service and prior authorization is required for the following nonemergency outpatient procedures: Magnetic Resonance Imaging, Computer Axial Tomography scans, or Positron Emission Tomography scans. *Prior authorization for dental services will be based on the Title XIX prior authorization requirements for dental services.*

2. Reimbursement for inpatient hospital services will be based on the Title XIX rates in effect for each hospital. Reimbursement shall not include payments for disproportionate share or graduate medical education payments made to hospitals. Payments made shall be final and there shall be no retrospective cost settlements.

3. Reimbursement for outpatient hospital services shall be based on the Title XIX rates in effect for each hospital. Payments made will be final and there will be no retrospective cost settlements.

4. Reimbursement for inpatient mental health services other than by free standing psychiatric hospitals will be based on the Title XIX rates in effect for each hospital. Reimbursement will not include payments for

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disproportionate share or graduate medical education payments made to hospitals. Payments made will be final and there will be no retrospective cost settlements.

5. Reimbursement for outpatient rehabilitation services will be based on the Title XIX rates in effect for each rehabilitation agency. Payments made will be final and there will be no retrospective cost settlements.

6. Reimbursement for outpatient substance abuse treatment services will be based on rates determined by DMAS for children ages 6 through 18. Payments made will be final and there will be no retrospective cost settlements.

7. Reimbursement for prescription drugs will be based on the Title XIX rates in effect. Reimbursements for Title XXI do not receive drug rebates as under Title XIX.

8. Reimbursement for covered prescription drugs for noninstitutionalized FAMIS recipients receiving the fee-for-service or PCCM benefits will be subject to review and prior authorization when their current number of prescriptions exceeds nine unique prescriptions within 180 days, and as may be further defined by the agency's guidance documents for pharmacy utilization review and the prior authorization program. The prior authorization process shall be applied consistent with the process set forth in 12 VAC 30-50-210 A 7.

/s/ Mark R. Warner  
Governor  
Date: June 29, 2005

VA.R. Doc. No. R05-244; Filed June 30, 2005, 4:37 p.m.

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Titles of Regulations: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care (amending 12 VAC 30-70-425; repealing 12 VAC 30-70-426).**

**12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-20 and 12 VAC 30-80-30).**

**12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-19).**

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Item 326O of Chapter 951 of the 2005 Acts of Assembly.

Effective Dates: July 1, 2005, through June 30, 2006.

Agency Contact: William Lessard, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680, or e-mail [william.lessard@dmass.virginia.gov](mailto:william.lessard@dmass.virginia.gov).

Preamble:

*Section 2.2-4011 of the Administrative Process Act states that an emergency situation is (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law, the Virginia appropriation act,*

*or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. This suggested emergency regulation meets the standard at § 2.2-4011(ii) of the Code of Virginia as discussed below.*

*Item 326O of the 2005 Appropriations Act provides that DMAS shall modify state regulations and the State Plan for Medical Assistance Services as they relate to supplemental payments to nonstate public nursing homes, hospitals and clinics and state hospitals and clinics as necessary to comply with changes negotiated with the Centers for Medicare and Medicaid Services. The state budget also provides for the authority to enact emergency regulations.*

*The Department of Medical Assistance Services (DMAS) was directed by the federal Medicaid authority, the Centers for Medicaid and Medicare Services (CMS), to modify or eliminate the use of intergovernmental transfers (IGTs) to finance supplemental payments by the end of SFY 2005. In return, CMS agreed to provide federal matching funds for existing supplemental payments financed by IGTs through the end of SFY 2005. To comply with its agreement with CMS, DMAS has decided to repeal certain supplemental payments and to modify others.*

*The purpose of this action is to comply with recent CMS restrictions on the financing of supplemental payments for services provided by nonstate public hospitals and nursing homes and state hospitals. In past years, DMAS has successfully generated additional federal reimbursement by making supplemental payments financed by intergovernmental transfers (IGTs). Beginning in January 2004, CMS began to defer federal matching funds for these payments. As a result of negotiations with CMS, CMS has agreed to provide federal matching funds for all existing supplemental payments financed by IGTs through the end of FY 2005, if DMAS agrees to sunset the use of IGTs to finance these supplemental payments after that date. DMAS will lose approximately \$26 million in federal matching funds for payments made or planned to be made in SFY 2004 and FY 2005 unless it agrees to make these changes. To comply with this arrangement, DMAS proposes to modify supplemental payments for inpatient services provided by nonstate public hospitals and nursing homes and outpatient services provided by nonstate public clinics, and to repeal all other supplemental payments.*

**12 VAC 30-70-425. Supplemental payments to Certified public expenditures for nonstate government-owned hospitals for inpatient services.**

~~A. DMAS shall provide lump sum supplemental payments to participating nonstate government owned hospitals for furnished inpatient services provided to Medicaid patients on or after December 16, 2001. The supplemental payments are made from a pool of funds, the amount of which is the difference between the Medicaid payments otherwise made to all nonstate government owned hospitals for services to Medicaid patients and the maximum amount allowable under applicable federal regulations in accordance with 42 CFR 447.272. A participating hospital is one with respect to which a transfer agreement has been made and implemented In~~

*addition to payments made elsewhere, effective July 1, 2005, DMAS shall draw down federal funds to cover unreimbursed Medicaid costs for inpatient services provided by nonstate government-owned hospitals as certified by the provider through cost reports.*

~~B. A nonstate government-owned hospital is owned or operated by a unit of government other than a state. The payment amount for a participating hospital is the hospital's proportionate share of the established pool of funds determined by dividing the hospital's Medicaid days provided during the most recent fiscal year by the total Medicaid days provided by all participating nonstate government-owned hospitals for the same fiscal year.~~

~~C. A payment made to a hospital under this provision when combined with other payments made under the State Plan shall not exceed the limit specified in 42 CFR 447.271 or the limit specified in 42 USC § 1396r-4(g). Any amount not included in a payment because of the operation of the preceding sentence shall be distributed to other participating hospitals in the same manner and subject to the same limitations as set forth above.~~

~~D. For the period from December 16, 2001, through May 13, 2002, aggregate payments to nonstate government-owned hospitals shall not exceed 150% of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles. For the period beginning May 14, 2002, aggregate payments to these hospitals shall not exceed 100% of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles.~~

~~E. To determine the reasonable estimate of the amount that would be payable under Medicare payment principles, a hospital-specific per diem will be determined by dividing all inpatient hospital costs for acute, psychiatric and rehabilitation services by the total number of patient days. The hospital-specific per diem will be multiplied by the hospital's Medicaid bed days. The reasonable estimate will be the sum of the calculations for all hospitals. The calculation will use data from the last settled cost report for all nonstate government-owned hospitals at the beginning of the state fiscal year for which calculations are made. However, for state fiscal year 2002, only data from the last settled cost report at the beginning of state fiscal year 2003 will be used. Charges and Medicaid payments will be trended forward using the Virginia-specific DRI hospital inflation factors. Medicare payments will be trended forward using CMS Medicare inflators. Additional adjustments will be made for any statutory changes in Medicare or Medicaid payments. The most recently available Medicaid DSH data will be used.~~

**~~12 VAC 30-70-426. Supplemental payments to state government-owned hospitals for inpatient services. (Repealed.)~~**

~~A. In addition to payments for inpatient hospital services provided for elsewhere in this State Plan, DMAS makes supplemental payments to state government-owned or operated hospitals for services provided to Medicaid patients on or after July 2, 2002. To qualify for a supplemental payment, the hospital must be part of a state academic health~~

~~system or part of an academic health system that operates under a state authority.~~

~~B. The amount of the supplemental payment made to each qualifying state government-owned or operated hospital is determined by:~~

~~1. Calculating for each hospital the annual difference between the upper payment limit attributed to each qualifying hospital calculated according to subsection D of this section and the amount otherwise actually paid for the services by the Medicaid program;~~

~~2. Dividing the difference determined in subdivision 1 of this subsection for each qualifying hospital by the aggregate difference for all such qualifying hospitals; and~~

~~3. Multiplying the proportion determined in subdivision 2 of this subsection by the aggregate upper payment limit amount for all such hospitals as determined in accordance with 42 CFR 447.272 less all payments made to such hospitals other than under this section.~~

~~C. Payments under this section may be made in one or more installments at such time, within the fiscal year or thereafter, as is determined by DMAS.~~

~~D. To determine the aggregate upper payment limit amount as referred to in subdivision B-3 of this section, the following methodology will be used. For cost-reimbursed hospitals, the upper payment limit is costs. By definition, cost-reimbursed hospitals have no net impact on the upper payment limit and will be excluded from the calculation. For Medicaid DRG-reimbursed hospitals, a ratio will be calculated for each hospital by dividing its Medicare payments by Medicare charges. This Medicare payment to charge ratio will be multiplied by Medicaid charges for each DRG-reimbursed hospital. The upper payment limit will be the sum of the product of that multiplication for all DRG-reimbursed hospitals. The calculation will use data from the last settled cost report for all state government-owned hospitals at the beginning of the state fiscal year for which calculations are made. Charges will be trended forward using hospital-specific data if available. If not available, charges will be trended forward using the Virginia-specific DRI hospital inflation factors. Additional adjustments will be made for any program changes in Medicare or Medicaid payments. The most recently available data on Medicaid DSH payments will be used.~~

**12 VAC 30-80-20. Services that are reimbursed on a cost basis.**

A. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program with the exception provided for in subdivision D 2 d. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

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B. Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules that reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

C. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

D. The services that are cost reimbursed are:

1. Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals.
2. Outpatient hospital services excluding laboratory.
  - a. Definitions. The following words and terms when used in this regulation shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency department and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ et seq.) of Title 32.1 of the Code of Virginia.

"Emergency hospital services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury that has occurred less than 72 hours prior to the emergency department visit.

- b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and

reimburse for nonemergency care rendered in emergency departments at a reduced rate.

(1) With the exception of laboratory services, DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all services, including those obstetric and pediatric procedures contained in 12 VAC 30-80-160, rendered in emergency departments that DMAS determines were nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services performed by the attending physician that may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for subdivision 2 b (2) of this subsection. Services not meeting certain criteria shall be paid under the methodology of subdivision 2 b (1) of this subsection. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

c. Limitation to 80% of allowable cost. Effective for services on and after July 1, 2003, reimbursement of Type Two hospitals for outpatient services shall be at 80% of allowable cost, with cost to be determined as provided in subsections A, B, and C of this section. For hospitals with fiscal years that do not begin on July 1, 2003, outpatient costs, both operating and capital, for the



fiscal year in progress on that date shall be apportioned between the time period before and the time period after that date, based on the number of calendar months in the cost reporting period, falling before and after that date. Operating costs apportioned before that date shall be settled according to the principles in effect before that date, and those after at 80% of allowable cost. Capital costs apportioned before that date shall be settled according to the principles in effect before that date, and those after at 80% of allowable cost. Operating and capital costs of Type One hospitals shall continue to be reimbursed at 94.2% and 90% of cost respectively.

d. Outpatient reimbursement methodology prior to July 1, 2003. DMAS shall continue to reimburse for outpatient hospital services, with the exception of direct graduate medical education for interns and residents, at 100% of reasonable costs less a 10% reduction for allowable capital costs and a 5.8% reduction for allowable operating costs. This methodology shall continue to be in effect after July 1, 2003, for Type One hospitals.

e. Payment for direct medical education costs of nursing schools, paramedical programs and graduate medical education for interns and residents.

(1) Direct medical education costs of nursing schools and paramedical programs shall continue to be paid on an allowable cost basis.

(2) Effective with cost reporting periods beginning on or after July 1, 2002, direct graduate medical education (GME) costs for interns and residents shall be reimbursed on a per-resident prospective basis. See 12 VAC 30-70-281 for prospective payment methodology for graduate medical education for interns and residents.

3. Rehabilitation agencies operated by community services boards. For reimbursement methodology applicable to other rehabilitation agencies, see 12 VAC 30-80-200. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

4. Comprehensive outpatient rehabilitation facilities.

5. Rehabilitation hospital outpatient services.

6. Supplemental payments to nonstate government-owned hospitals for outpatient services.

a. The department provides lump sum supplemental payments to participating nonstate government-owned hospitals for furnished outpatient services provided to Medicaid patients on or after December 16, 2001. The supplemental payments are made from a pool of funds, the amount of which is the difference between the Medicaid payments otherwise made to all nonstate government-owned hospitals for outpatient services to Medicaid patients and the maximum amount allowable

under applicable federal regulations at 42 CFR 447.321. A participating hospital is one with respect to which a transfer agreement has been made and implemented.

b. A nonstate government-owned hospital is owned or operated by a unit of government other than a state. The payment amount for a participating hospital is the hospital's proportionate share of the established pool of funds determined by dividing the hospital's payments for outpatient services provided to Medicaid patients during the most recent fiscal year by the total payments for outpatient services to Medicaid patients provided by all participating nonstate government-owned hospitals for the same fiscal year.

c. A payment made to a hospital under this provision when combined with other payments made under the State Plan shall not exceed the limit specified in 42 USC § 1396r-4(g). Any amount not included in a payment because of the operation of the preceding sentence shall be distributed to other participating hospitals in the same manner and subject to the same limitations as set forth above.

d. For the period from December 16, 2001, through May 13, 2002, aggregate payments to nonstate government-owned hospitals shall not exceed 150% of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles. For the period beginning May 14, 2002, aggregate payments to these hospitals shall not exceed 100% of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles.

e. To determine the reasonable estimate of the amount that would be paid under Medicare payment principles, each hospital's outpatient cost to charge ratio will be calculated and applied to its Medicaid outpatient charges. The reasonable estimate will be the sum of the calculations for all hospitals. The calculation will use data from the last settled cost report for all nonstate government-owned hospitals at the beginning of the state fiscal year for which calculations are made. However, for state fiscal year 2002, only data from the last settled cost report at the beginning of state fiscal year 2003 will be used. Charges and Medicaid payments will be trended forward using the Virginia-specific DRI hospital inflation factors. Additional adjustments will be made for any statutory changes in Medicare or Medicaid payments. The most recently available data on Medicaid DSH payments will be used.

7. Supplemental payments to state government-owned hospitals for outpatient services.

a. In addition to payments for services set forth elsewhere in this State Plan, DMAS provides supplemental payments to qualifying state government-owned or operated hospitals for outpatient services provided to Medicaid patients on or after July 2, 2002. To qualify for a supplemental payment, the hospital must be part of a state academic health system or part of an academic health system that operates under a state authority.

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~~b. The amount of the supplemental payment made to each qualifying hospital is determined by:~~

~~(1) Calculating for each hospital the annual difference between the upper payment limit attributed to each qualifying hospital calculated according to this subdivision 7d and the amount otherwise actually paid for the services by the Medicaid program;~~

~~(2) Dividing the difference determined in subdivision 7 b (1) for each qualifying hospital by the aggregate difference for all such qualifying hospitals; and~~

~~(3) Multiplying the proportion determined in subdivision 7 b (2) by the aggregate upper payment limit amount for all state owned or operated hospitals as determined in accordance with 42 CFR 447.321 less all payments made to such hospitals other than under this section.~~

~~(4) A payment made to a hospital under this provision when combined with other payments made under the State Plan shall not exceed the limit specified at 42 USC § 1396r-4(g). Any amount not included in a payment because of the operation of the preceding sentence shall be distributed to other qualifying hospitals in the same manner and subject to the same limitations as set forth above.~~

~~c. Payments for furnished services under this section may be made in one or more installments at such times, within the fiscal year or thereafter, as is determined by DMAS.~~

~~d. To determine the aggregate upper payment limit amount referred to in subdivision 7 b (3), the following methodology will be used. A ratio will be calculated for each hospital by dividing its Medicare payments by Medicare charges. This Medicare payment to charge ratio will be multiplied by the Medicaid charges for each hospital. The upper payment limit will be the sum of the product of that multiplication for all hospitals. The calculation will use data from the most recently settled cost report for all state government owned hospitals at the beginning of the state fiscal year for which calculations are made. Charges will be trended forward using hospital specific data if available. If not available, charges will be trended forward using the Virginia specific DRI hospital inflation factors. Additional adjustments will be made for any program changes in Medicare or Medicaid payments. The most recently available data on Medicaid DSH payments will be used.~~

## 12 VAC 30-80-30. Fee-for-service providers.

A. Payment for the following services, except for physician services, shall be the lower of the state agency fee schedule (12 VAC 30-80-190 has information about the state agency fee schedule) or actual charge (charge to the general public):

1. Physicians' services (12 VAC 30-80-160 has obstetric/pediatric fees). Payment for physician services shall be the lower of the state agency fee schedule or actual charge (charge to the general public), except that reimbursement rates for designated physician services when performed in hospital outpatient settings shall be 50% of the reimbursement rate established for those services

when performed in a physician's office. The following limitations shall apply to emergency physician services.

a. Definitions. The following words and terms when used in this subdivision 1 shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency department visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury that has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse physicians for nonemergency care rendered in emergency departments at a reduced rate.

(1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in 12 VAC 30-80-160, rendered in emergency departments that DMAS determines are nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services determined by the attending physician that may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology in subdivision 1 b (2) of this subsection. Services not meeting certain criteria shall be paid under the methodology in subdivision 1 b (1) of this subsection. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

## 2. Dentists' services.

3. Mental health services including: (i) community mental health services; (ii) services of a licensed clinical psychologist; or (iii) mental health services provided by a physician.

a. Services provided by licensed clinical psychologists shall be reimbursed at 90% of the reimbursement rate for psychiatrists.

b. Services provided by independently enrolled licensed clinical social workers, licensed professional counselors, licensed clinical nurse specialists-psychiatric or licensed marriage and family therapists shall be reimbursed at 75% of the reimbursement rate for licensed clinical psychologists.

## 4. Podiatry.

## 5. Nurse-midwife services.

## 6. Durable medical equipment (DME).

a. The rate paid for all items of durable medical equipment except nutritional supplements shall be the lower of the state agency fee schedule that existed prior to July 1, 1996, less 4.5%, or the actual charge.

b. The rate paid for nutritional supplements shall be the lower of the state agency fee schedule or the actual charge.

c. Certain durable medical equipment used for intravenous therapy and oxygen therapy shall be bundled under specified procedure codes and reimbursed as determined by the agency. Certain services/durable medical equipment such as service maintenance agreements shall be bundled under specified procedure codes and reimbursed as determined by the agency.

(1) Intravenous therapies. The DME for a single therapy, administered in one day, shall be reimbursed at the established service day rate for the bundled

durable medical equipment and the standard pharmacy payment, consistent with the ingredient cost as described in 12 VAC 30-80-40, plus the pharmacy service day and dispensing fee. Multiple applications of the same therapy shall be included in one service day rate of reimbursement. Multiple applications of different therapies administered in one day shall be reimbursed for the bundled durable medical equipment service day rate as follows: the most expensive therapy shall be reimbursed at 100% of cost; the second and all subsequent most expensive therapies shall be reimbursed at 50% of cost. Multiple therapies administered in one day shall be reimbursed at the pharmacy service day rate plus 100% of every active therapeutic ingredient in the compound (at the lowest ingredient cost methodology) plus the appropriate pharmacy dispensing fee.

(2) Respiratory therapies. The DME for oxygen therapy shall have supplies or components bundled under a service day rate based on oxygen liter flow rate or blood gas levels. Equipment associated with respiratory therapy may have ancillary components bundled with the main component for reimbursement. The reimbursement shall be a service day per diem rate for rental of equipment or a total amount of purchase for the purchase of equipment. Such respiratory equipment shall include, but not be limited to, oxygen tanks and tubing, ventilators, noncontinuous ventilators, and suction machines. Ventilators, noncontinuous ventilators, and suction machines may be purchased based on the individual patient's medical necessity and length of need.

(3) Service maintenance agreements. Provision shall be made for a combination of services, routine maintenance, and supplies, to be known as agreements, under a single reimbursement code only for equipment that is recipient owned. Such bundled agreements shall be reimbursed either monthly or in units per year based on the individual agreement between the DME provider and DMAS. Such bundled agreements may apply to, but not necessarily be limited to, either respiratory equipment or apnea monitors.

7. Local health services, including services paid to local school districts.

8. Laboratory services (other than inpatient hospital).

9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling).

10. X-Ray services.

11. Optometry services.

12. Medical supplies and equipment.

13. Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by 12 VAC 30-80-180.

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14. Physical therapy; occupational therapy; and speech, hearing, language disorders services when rendered to noninstitutionalized recipients.

15. Clinic services, as defined under 42 CFR 440.90.

~~16. Supplemental payments to state government owned or operated clinics:~~

~~a. In addition to payments for clinic services specified elsewhere in this state plan, DMAS provides supplemental payments for outpatient services provided to Medicaid patients on or after July 2, 2002. Clinic means a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients. Outpatient services include those furnished by or under the direction of a physician, dentist or other medical professional acting within the scope of his license to an eligible individual. Supplemental payments will be made to Children's Specialty Services, a state government owned and operated clinic.~~

~~b. The amount of the supplemental payment made to Children's Specialty Services is determined by calculating for all state government owned or operated clinics the annual difference between the aggregate upper payment limit specified in 42 CFR 447.321 and determined according to the method described in subdivision 16 d and the amount otherwise actually paid for the services by the Medicaid program.~~

~~c. Payments for furnished services made under this section may be made in one or more installments at such times, within the fiscal year or thereafter, as is determined by DMAS.~~

~~d. To determine the aggregate upper payment limit, Medicaid payments to state government owned or operated clinics will be divided by the "additional factor" whose calculation is described in Attachment 4.19-B, Supplement 4 (12 VAC 30-80-190 B) in regard to the state agency fee schedule for Resource Based Relative Value Scale (RBRVS). Medicaid payments will be estimated using payments for dates of service from the prior fiscal year adjusted for expected claim payments. Additional adjustments will be made for any program changes in Medicare or Medicaid payments.~~

~~17. 16. Supplemental payments for services provided by Type I physicians.~~

~~18. 17. Supplemental payments to nonstate government-owned or operated clinics.~~

~~a. In addition to payments for clinic services specified elsewhere in the regulations, DMAS provides supplemental payments to qualifying nonstate government-owned or operated clinics for outpatient services provided to Medicaid patients on or after July 2, 2002. Clinic means a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients. Outpatient services include those furnished by or under the direction of a physician, dentist or other medical professional acting within the scope of his license to an eligible individual. *Effective July 1, 2005, a qualifying clinic is a clinic with estimated Medicaid*~~

~~payments in 2003 (including primary payments and copayments) of more than \$100,000 other than under this section and that serve areas covered by managed care prior to January 1, 1998 operated by a community services board. The state share for supplemental clinic payments will be funded by general fund appropriations.~~

~~b. The amount of the supplemental payment made to each qualifying nonstate government-owned or operated clinic is determined by:~~

~~(1) Calculating for each clinic the annual difference between the upper payment limit attributed to each clinic according to subdivision 18 d and the amount otherwise actually paid for the services by the Medicaid program;~~

~~(2) Dividing the difference determined in subdivision 18 b (1) for each qualifying clinic by the aggregate difference for all such qualifying clinics; and~~

~~(3) Multiplying the proportion determined in subdivision (2) of this subdivision 18 b by the aggregate upper payment limit amount for all such clinics as determined in accordance with 42 CFR 447.321 less all payments made to such clinics other than under this section.~~

~~c. Payments for furnished services made under this section may be made in one or more installments at such times, within the fiscal year or thereafter, as is determined by DMAS.~~

~~d. To determine the aggregate upper payment limit referred to in subdivision 18 b (3), Medicaid payments to nonstate government-owned or operated clinics will be divided by the "additional factor" whose calculation is described in Attachment 4.19-B, Supplement 4 (12 VAC 30-80-190 B) in regard to the state agency fee schedule for RBRVS. Medicaid payments will be estimated using payments for dates of service from the prior fiscal year adjusted for expected claim payments. Additional adjustments will be made for any program changes in Medicare or Medicaid payments.~~

~~B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and take into account the room and board furnished by the facility, equal to at least 95% of the rate that would have been paid by the state under the plan for facility services in that facility for that individual. Hospice services shall be paid according to the location of the service delivery and not the location of the agency's home office.~~

## ~~12 VAC 30-90-19. Additional reimbursement Certified public expenditures for locally-owned nursing facilities.~~

~~A. Subject to legislative authorization as required and the availability of local, state, and federal funds, and based upon a transfer agreement and the subsequent transfer of funds, DMAS makes additional payments to local government nursing facilities. A local government nursing facility is defined as a provider owned or operated by a county, city, or other local government agency, instrumentality, authority or commission. *In addition to payments made elsewhere, effective July 1, 2005, DMAS shall draw down federal funds to cover unreimbursed Medicaid costs for inpatient services*~~

provided by nonstate government-owned nursing homes as certified by the provider through cost reports. A local government nursing facility is defined as a provider owned or operated by a county, city, or other local government agency, instrumentality, authority or commission.

~~B. DMAS uses the following methodology to calculate the additional Medicaid payments to local government nursing facilities:~~

- ~~1. For each state fiscal year, DMAS calculates the maximum additional payments that it can make to the local government nursing facilities in conformance with 42 CFR 447.272 (a).~~
- ~~2. DMAS determines a total additional payment amount to be made in a manner not to exceed the maximum additional payment amount calculated in subdivision 1 of this subsection.~~
- ~~3. Using the latest fiscal period for which the local government nursing facilities have completed cost reports on file with DMAS, the department determines the total Medicaid days reported by each local government nursing facility for that fiscal period.~~
- ~~4. DMAS divides the total Medicaid days for each local government nursing facility by the total Medicaid days for all local government nursing facilities to determine the supplementation factor for each.~~
- ~~5. For each local government nursing facility, the department multiplies the local government nursing facility's supplementation factor determined in subdivision 4 of this subsection by the total additional payment amount identified in subdivision 2 of this subsection to determine the additional payment to be made to each local government nursing facility.~~

/s/ Mark R. Warner  
Governor  
Date: June 29, 2005

V.A.R. Doc. No. R05-246; Filed June 30, 2005; 4:41 p.m.

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**Title of Regulation:** 12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care (amending 12 VAC 30-70-291).

**Statutory Authority:** §§ 32.1-324 and 32.1-325 of the Code of Virginia; Item 326ZZZ of Chapter 951 of the 2005 Acts of Assembly.

**Effective Dates:** July 1, 2005, through June 30, 2006.

**Agency Contact:** Steve Ford, Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7355, FAX (804) 786-1680, or e-mail [steve.ford@dmas.virginia.gov](mailto:steve.ford@dmas.virginia.gov).

**Preamble:**

*Section 2.2-4011 of the Administrative Process Act states that an emergency situation is (i) a situation involving an imminent threat to public health or safety or (ii) a situation in*

*which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which a federal regulation requires a regulation to take effect no later than 280 days from its effective date. This suggested emergency regulation meets the standard at § 2.2-4011(i) as discussed below.*

*This regulatory action qualifies as an emergency because it is responding to a mandate in the 2005 Virginia Appropriation Act (Chapter 951, Item 326 ZZZ), which calls for an IME payment enhancement to private (Type Two) hospitals with Medicaid NICU days in excess of 4,500 (as reported to DMAS by March 1, 2005).*

*The purpose of this regulatory action is to implement a new supplemental payment for hospitals that do not otherwise receive an enhanced IME payment based upon the 2004 Appropriation Act that mandated additional payments for hospitals with higher NICU utilization rates (2004 Appropriation Act, Item 326 HHH). The total amount of funds to be dispersed among eligible hospitals has been set at \$0.5 million annually. This mandate must be implemented beginning in State Fiscal Year 2006.*

## **12 VAC 30-70-291. Payment for indirect medical education costs.**

A. Hospitals shall be eligible to receive payments for indirect medical education. These payments recognize the increased use of ancillary services associated with the educational process and the higher case-mix intensity of teaching hospitals. The payments for indirect medical education shall be made in estimated quarterly lump sum amounts and settled at the hospital's fiscal year end.

B. Final payment for IME shall be determined as follows:

1. Type One hospitals shall receive an IME payment equal to the hospital's Medicaid operating reimbursement times an IME percentage determined as follows:

IME Percentage for Type One Hospitals =  $[1.89 \times ((1 + r)^{0.405} - 1)] \times$  (IME Factor)

An IME factor shall be calculated for each Type One hospital and shall equal a factor that, when used in the calculation of the IME percentage, shall cause the resulting IME payments to equal what the IME payments would be with an IME factor of one, plus an amount equal to the difference between operating payments using the adjustment factor specified in subdivision B 1 of 12 VAC 30-70-331 and operating payments using an adjustment factor of one in place of the adjustment factor specified in subdivision B 1 of 12 VAC 30-70-331.

2. Type Two hospitals shall receive an IME payment equal to the hospital's Medicaid operating reimbursement times an IME percentage determined as follows:

IME Percentage for Type Two Hospitals =  $[1.89 \times ((1 + r)^{0.405} - 1)] \times 0.4043$

In both equations, r is the ratio of full-time equivalent residents to staffed beds, excluding nursery beds. The IME payment shall be calculated each year using the most recent reliable data regarding the number of full-time

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equivalent residents and the number of staffed beds, excluding nursery beds.

C. An additional IME payment shall be made for inpatient hospital services provided to Medicaid patients but reimbursed by capitated managed care providers. This payment shall be equal to the hospital's hospital specific operating rate per case, as determined in 12 VAC 30-70-311, times the hospital's HMO paid discharges times the hospital's IME percentage, as determined in subsection B of this section.

D. (Reserved.)

E. An additional IME payment not to exceed \$500,000 in total shall be apportioned among Type Two Hospitals with Medicaid NICU days in excess of 4,500 as reported to the Department of Medical Assistance Services as of March 1, 2005, that do not otherwise receive an additional IME payment based on NICU utilization. These payments shall be apportioned based on each eligible hospital's percent of Medicaid NICU patient days relative to the total of these days among eligible hospitals as reported by March 1, 2005.

/s/ Mark R. Warner  
Governor  
Date: June 30, 2005

VA.R. Doc. No. R05-251; Filed July 1, 2005; 4:46 p.m.

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**Title of Regulation:** 12 VAC 30-120. Waivered Services: Day Support Waiver for Individuals With Mental Retardation (adding 12 VAC 30-120-1500 through 12 VAC 120-1590).

**Statutory Authority:** §§ 32.1-324 and 32.1-325 of the Code of Virginia.

**Effective Dates:** July 1, 2005, through June 30, 2006.

**Agency Contact:** Suzanne Klaas, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4239, FAX (804) 786-1680, or e-mail [suzanne.klaas@dmas.virginia.gov](mailto:suzanne.klaas@dmas.virginia.gov).

**Preamble:**

*The Administrative Process Act (§ 2.2-4011) states that an emergency situation is (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. This suggested emergency regulation meets the standard at § 2.2-4011 (ii) of the Code of Virginia as discussed below.*

*The Department of Medical Assistance Services was directed in Chapter 951 of the 2005 Acts of the Assembly, Item 326 LLL, to develop a day support waiver for persons with mental retardation. Chapter 951 authorizes the department to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect this provision.*

*The purpose of this action is to establish a new program, the Day Support Waiver for Individuals with Mental Retardation to provide day support and prevocational services for individuals who are waiting to receive services under the Mental Retardation (MR) Waiver. In 2004 there were over 1,100 individuals on the urgent waiting list and over 1,300 individuals on the nonurgent waiting list for the MR Waiver. Individuals in the Day Support Waiver program will receive services until they are no longer eligible for Day Support Waiver services.*

*This waiver covers only those individuals who have a diagnosis of mental retardation. Currently, individuals can pay privately for services but few can afford the cost. Localities are also paying for day support but funding is limited. The services offered are those that are appropriate and necessary to maintain the individual in the community. Day support services include training, assistance, and specialized supervision in the acquisition, retention, or improvement of self-help, socialization, and adaptive skills, which typically take place outside the home in which the individual resides. Day support services shall focus on enabling the individual to attain or maintain his maximum functional level. Prevocational services are those services aimed at preparing an individual for paid or unpaid employment. They do not include activities that are specifically job-task oriented but focus on concepts such as accepting supervision, attendance, task completion, problem solving and safety. Compensation, if provided, is less than 50% of the minimum wage.*

*The regulations are necessary to have operational authority for the waiver, which is projected to start July 1, 2005. The effective date is contingent upon CMS approval of Virginia's application for the waiver.*

## PART XV.

### DAY SUPPORT WAIVER FOR INDIVIDUALS WITH MENTAL RETARDATION.

#### 12 VAC 30-120-1500. Definitions.

*The following words and terms when used in this part shall have the following meanings unless the context clearly indicates otherwise.*

*"Appeal" means the process used to challenge adverse actions regarding services, benefits, and reimbursement provided by Medicaid pursuant to 12 VAC 30-110 and 12 VAC 30-20-500 through 12 VAC 30-20-560.*

*"Behavioral health authority" or "BHA" means the local agency, established by a city or county under Chapter 15 (§ 37.1-242 et seq.) of Title 37.1 of the Code of Virginia that plans, provides, and evaluates mental health, mental retardation, and substance abuse services in the locality that it serves.*

*"CMS" means the Centers for Medicare and Medicaid Services, which is the unit of the federal Department of Health and Human Services that administers the Medicare and Medicaid programs.*

*"Case management" means the assessing and planning of services; linking the individual to services and supports*

identified in the consumer service plan; assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources; coordinating services and service planning with other agencies and providers involved with the individual; enhancing community integration; making collateral contacts to promote the implementation of the consumer service plan and community integration; monitoring to assess ongoing progress and ensuring services are delivered; and education and counseling that guides the individual and develops a supportive relationship that promotes the consumer service plan.

"Case manager" means the individual who performs case management services on behalf of the community services board or behavioral health authority, and who possesses a combination of mental retardation work experience and relevant education that indicates that the individual possesses the knowledge, skills and abilities as established by the Department of Medical Assistance Services in 12 VAC 30-50-450.

"Community services board" or "CSB" means the local agency, established by a city or county or combination of counties or cities under Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia, that plans, provides, and evaluates mental health, mental retardation, and substance abuse services in the jurisdiction or jurisdictions it serves.

"Comprehensive assessment" means the gathering of relevant social, psychological, medical, and level of care information by the case manager and is used as a basis for the development of the consumer service plan.

"Consumer service plan" or "CSP" means documents addressing needs in all life areas of individuals who receive day support waiver services, and is comprised of individual service plans as dictated by the individual's health care and support needs. The case manager incorporates the individual service plans in the CSP.

"DMAS" means the Department of Medical Assistance Services.

"DMAS staff" means persons employed by the Department of Medical Assistance Services.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DMHMRSAS staff" means persons employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DRS" means the Department of Rehabilitative Services.

"DSS" means the Department of Social Services.

"Day Support Waiver for Individuals with Mental Retardation" ("Day support Waiver") is the program that provides day support and prevocational services to selected individuals on the waiting list for the Mental Retardation Waiver.

"Day Support" means training, assistance, and specialized supervision in the acquisition, retention, or improvement of self-help, socialization, and adaptive skills, which typically take place outside the home in which the individual resides. Day

support services shall focus on enabling the individual to attain or maintain his maximum functional level.

"Enroll" means that the individual has been determined by the case manager to meet the eligibility requirements for the Day Support Waiver and DMHMRSAS has verified the availability of a Day Support Waiver slot for that individual.

"EPSDT" means the Early Periodic Screening, Diagnosis and Treatment program administered by DMAS for children under the age of 21 according to federal guidelines that prescribe preventive and treatment services for Medicaid-eligible children as defined in 12 VAC 30-50-130.

"Home and community-based waiver services" or "waiver services" means the range of community support services approved by the Centers for Medicare and Medicaid Services (CMS) pursuant to § 1915(c) of the Social Security Act to be offered to persons with mental retardation and children younger than age six who are at developmental risk who would otherwise require the level of care provided in an Intermediate Care Facility for the Mentally Retarded (ICF/MR.)

"Intermediate Care Facility for the Mentally Retarded" ("ICF/MR") means a facility or distinct part of a facility certified by the Virginia Department of Health, as meeting the federal certification regulations for an intermediate care facility for the mentally retarded and persons with related conditions. These facilities must address the total needs of the residents, which include physical, intellectual, social, emotional, and habilitation, and must provide active treatment.

"Individual" means the person receiving the services or evaluations established in these regulations.

"Individual service plan" or "ISP" means the service plan related solely to the specific waiver service. Multiple ISPs help to comprise the overall consumer service plan.

"Mental retardation" or "MR" means mental retardation as defined by the American Association on Mental Retardation (AAMR).

"Participating provider" means an entity that meets the standards and requirements set forth by DMAS and DMHMRSAS, and has a current, signed provider participation agreement with DMAS.

"Preauthorized" means that an individual service has been approved by DMHMRSAS prior to commencement of the service by the service provider for initiation and reimbursement of services.

"Prevocational services" means services aimed at preparing an individual for paid or unpaid employment, but are not job-task oriented. Prevocational services are provided to individuals who are not expected to be able to join the general work force without supports or to participate in a transitional sheltered workshop within one year of beginning waiver services (excluding supported employment programs). The services do not include activities that are specifically job-task oriented but focus on concepts such as accepting supervision, attendance, task completion, problem solving and safety. Compensation, if provided, is less than 50% of the minimum wage.

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"Slot" means an opening or vacancy of waiver services for an individual.

"State Plan for Medical Assistance" or "Plan" means the Commonwealth's legal document approved by CMS identifying the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

## **12 VAC 30-120-1510. General coverage and requirements for day support waiver services.**

A. Waiver service populations. Home and community-based waiver services shall be available through a § 1915(c) of the Social Security Act waiver for individuals with mental retardation who have been determined to require the level of care provided in an ICF/MR.

### B. Covered services.

1. Covered services shall include day support and prevocational services.

2. These services shall be the appropriate and necessary to maintain the individual in the community. Federal waiver requirements provide that the average per capita fiscal year expenditures under the waiver must not exceed the average per capita expenditures for the level of care provided in ICF/MR under the State Plan that would have been provided had the waiver not been granted.

3. Under this § 1915(c) waiver, DMAS waives § 1902(a)(10)(B) of the Social Security Act related to comparability.

C. Appeals. Individual appeals shall be considered pursuant to 12 VAC 30-110-10 through 12 VAC 30-110-380. Provider appeals shall be considered pursuant to 12 VAC 30-10-1000 and 12 VAC 30-20-500 through 12 VAC 30-20-560.

### D. Slot Allocation.

1. DMHMRSAS will maintain one waiting list, the MR Waiver waiting list (12 VAC 30-120-211, et seq.) which will be used to assign slots in both the MR Waiver and Day Support Waiver. For Day Support Waiver services, DMHMRSAS will assign slots based on the application date reported by the case manager when the individual was placed on the MR Waiver waiting list while assuring that each CSB has at least one Day Support Waiver slot. Individuals interested in receiving Day Support Waiver services who are not currently on the MR Waiver waiting list may apply for services through the local CSB and if found eligible will be placed on the MR Waiver waiting list until a slot is available.

2. Each CSB will be assigned one Day Support Waiver slot by DMHMRSAS. This slot will remain a CSB slot that, when vacated, will be offered to the next individual on the MR Waiver waiting list from that CSB. The remaining slots will be distributed to the CSBs by DMHMRSAS based on the statewide MR Waiver waiting list. When vacated, these slots will be assigned by DMHMRSAS to the next individual on the waiting list, based upon the application date.

3. Individuals may remain on the MR Waiver waiting list while receiving Day Support Waiver services.

E. Reevaluation of service need and utilization review. Case managers shall complete reviews and updates of the CSP and level of care as specified in 12 VAC 30-120-1520 D. Providers shall meet the documentation requirements as specified in 12 VAC 30-120-1530 B.

## **12 VAC 30-120-1520. Individual eligibility requirements.**

A. Individuals receiving services under this Waiver must meet the following requirements. Virginia will apply the financial eligibility criteria contained in the Title XIX State Plan for Medical Assistance for the categorically needy. Virginia has elected to cover the optional categorically needy groups under 42 CFR 435.211, 435.217, and 435.230. The income level used for 42 CFR 435.211, 435.217 and 435.230 is 300% of the current Supplemental Security Income payment standard for one person.

1. Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. All recipients under the waiver must meet the financial and nonfinancial Medicaid eligibility criteria and meet the institutional level of care criteria. The deeming rules are applied to waiver eligible individuals as if the individual were residing in an institution or would require that level of care.

2. Virginia shall reduce its payment for home and community-based waiver services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents, and medical needs have been made, according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986. DMAS will reduce its payment for home and community-based waiver services by the amount that remains after the deductions listed below:

a. For individuals to whom § 1924(d) applies and for whom Virginia waives the requirement for comparability pursuant to § 1902(a)(10)(B), deduct the following in the respective order:

(1) The basic maintenance needs for an individual, which is equal to the SSI payment for one person. Due to expenses of employment, a working individual shall have an additional income allowance. For an individual employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% SSI; for an individual employed at least eight but less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's total monthly income, is added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance



plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI.

(2) For an individual with only a spouse at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act.

(3) For an individual with a spouse or children at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges, and necessary medical or remedial care recognized under state law but not covered under the plan.

b. For individuals to whom § 1924(d) does not apply and for whom Virginia waives the requirement for comparability pursuant to § 1902(a)(10)(B), deduct the following in the respective order:

(1) The basic maintenance needs for an individual, which is equal to the SSI payment for one person. Due to expenses of employment, a working individual shall have an additional income allowance. For an individual employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% SSI; for an individual employed at least eight but less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's total monthly income, is added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI.

(2) For an individual with a dependent child or children, an additional amount for the maintenance needs of the child or children, which shall be equal to the Title XIX medically needy income standard based on the number of dependent children.

(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but not covered under the State Plan for Medical Assistance.

## B. Assessment and enrollment.

1. To ensure that Virginia's home and community-based waiver programs serve only individuals who would otherwise be placed in an ICF/MR, home and community-based waiver services shall be considered only for individuals with a diagnosis of mental retardation. For the case manager to make a recommendation for waiver services, Day Support Waiver services must be determined

to be an appropriate service alternative to delay or avoid placement in an ICF/MR, or promote exiting from either an ICF/MR placement or other institutional placement.

2. The case manager shall recommend the individual for home and community-based waiver services after completion of a comprehensive assessment of the individual's needs and available supports. This assessment process for home and community-based waiver services by the case manager is mandatory before Medicaid will assume payment responsibility of home and community-based waiver services. The comprehensive assessment includes:

a. Relevant medical information based on a medical examination completed no earlier than 12 months prior to beginning waiver services;

b. The case manager's functional assessment which demonstrates a need for each specific service. The functional assessment must be a DMHMRSAS approved assessment completed no earlier than 12 months prior to beginning waiver services;

c. The level of care required by applying the existing DMAS ICF/MR criteria (12 VAC 30-130-430 et seq.) completed no more than six months prior to the start of waiver services. The case manager determines whether the individual meets the ICF/MR criteria with input from the individual, family/caregivers, and service and support providers involved in the individual's support in the community; and,

d. A psychological evaluation which reflects the current psychological status (diagnosis), current cognitive abilities, and current adaptive level of functioning of the individuals.

3. The case manager shall provide the individual and family/caregiver with the choice of Day Support Waiver services or ICF/MR placement.

4. The case manager shall send the appropriate forms to DMHMRSAS to enroll the individual in the Day Support Waiver or, if no slot is available, to place the individual on the Mental Retardation Waiver waiting list. DMHMRSAS shall only enroll the individual if a slot is available.

C. Waiver approval process: authorizing and accessing services.

1. Once the case manager has determined an individual meets the criteria for Day Support Waiver services, has determined that a slot is available, and that the individual has chosen this service, the case manager shall submit updated enrollment information to DMHMRSAS to confirm level of care eligibility and the availability of a slot.

2. Once the individual has been enrolled by DMHMRSAS, the case manager will submit a DMAS-122 along with a written confirmation from DMHMRSAS of level of care eligibility, to the local DSS to determine financial eligibility for the waiver program and any patient pay responsibilities.

3. After the case manager has received written notification of Medicaid eligibility by DSS and written enrollment

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confirmation from DMHMRSAS, the case manager shall inform the individual or family/caregiver so that the CSP can be developed. The individual or individual's family/caregiver will meet with the case manager within 30 calendar days following the receipt of written notification to discuss the individual's needs and existing supports, and to develop a CSP that will establish and document the needed services. The case manager provides the individual and family/caregiver with choice of needed services available under the Day Support Waiver, alternative settings and providers. A CSP shall be developed for the individual based on the assessment of needs as reflected in the level of care and functional assessment instruments and the individual's, family/caregiver's preferences. The CSP development process identifies the services to be rendered to individuals, the frequency of services, the type of service provider or providers, and a description of the services to be offered. Only services authorized on the CSP by DMHMRSAS according to DMAS policies will be reimbursed by DMAS.

4. The individual or case manager shall contact chosen service providers so that services can be initiated within 60 days of receipt of enrollment confirmation from DMHMRSAS. The service providers in conjunction with the individual, individual's family/caregiver and case manager will develop Individual Service Plans (ISP) for each service. A copy of these plans will be submitted to the case manager. The case manager will review and ensure the ISP meets the established service criteria for the identified needs. The ISP from each waiver service provider shall be incorporated into the CSP.

5. If waiver services are not initiated within 60 days from receipt of enrollment confirmation, the case manager must submit written information to DMHMRSAS requesting more time to initiate services. A copy of the request must be provided to the individual or the individual's family/caregiver. DMHMRSAS has the authority to approve the request in 30-day extensions or deny the request to retain the waiver slot for that individual. DMHMRSAS shall provide a written response to the case manager indicating denial or approval of the extension. DMHMRSAS shall submit this response within 10 working days of the receipt of the request for extension.

6. The case manager must submit the results of the comprehensive assessment and a recommendation to the DMHMRSAS staff for final determination of ICF/MR level of care and authorization for community-based services. DMHMRSAS shall, within 10 working days of receiving all supporting documentation, review and approve, pend for more information, or deny the individual service requests. DMHMRSAS will communicate in writing to the case manager whether the recommended services have been approved and the amounts and type of services authorized or if any have been denied. Medicaid will not pay for any home and community-based waiver services delivered prior to the authorization date approved by DMHMRSAS if preauthorization is required.

7. Day Support Waiver services may be recommended by the case manager only if:

a. The individual is Medicaid eligible as determined by the local office of the Department of Social Services;

b. The individual has a diagnosis of mental retardation as defined by the American Association on Mental Retardation and would in the absence of waiver services, require the level of care provided in an ICF/MR facility the cost of which would be reimbursed under the Plan;

c. The contents of the individual service plans are consistent with the Medicaid definition of each service; and

d. The individual requesting waiver services is not receiving such services while an inpatient of a nursing facility, an ICF/MR, hospital, or inpatient rehabilitation facility.

8. All consumer service plans are subject to approval by DMAS. DMAS shall be the single state agency authority responsible for the supervision of the administration of the Day Support Waiver and is responsible for conducting utilization review activities. DMHMRSAS shall conduct preauthorization of waiver services.

## D. Reevaluation of service need.

### 1. The consumer service plan.

a. The case manager shall update the CSP annually based on relevant, current assessment data; in updating the CSP, the case manager shall work with the individual, the individual's family/caregiver, other service providers, consultants, and other interested parties.

b. The case manager shall be responsible for continuous monitoring of the appropriateness of the individual's services and revisions to the CSP as indicated by the changing needs of the individual. At a minimum, the case manager must review the CSP every three months to determine whether service goals and objectives are being met and whether any modifications to the CSP are necessary.

c. Any modification to the amount or type of services in the CSP must be authorized by DMHMRSAS.

### 2. Review of level of care.

a. The case manager shall complete a reassessment annually, in coordination with the individual, family/caregiver, and service providers. The reassessment shall include an update of the level of care and functional assessment instrument and any other appropriate assessment data. If warranted, the case manager shall coordinate a medical examination and a psychological evaluation for the individual. The CSP shall be revised as appropriate.

b. A medical examination must be completed for adults based on need identified by the individual, family/caregiver, provider, case manager, or DMHMRSAS staff. Medical examinations and screenings for children must be completed according to the recommended frequency and periodicity of the EPSDT program.

c. A new psychological evaluation shall be required whenever the individual's functioning has undergone significant change and is no longer reflective of the past psychological evaluation.

3. The case manager will monitor the service providers' ISPs to ensure that all providers are working toward the identified goals of the affected individuals.

4. Case managers will be required to conduct monthly onsite visits for all Day Support Waiver individuals residing in DSS-licensed assisted living facilities or approved adult foster care placements.

5. The case manager must request an updated DMAS-122 form from DSS annually and forward a copy of the updated DMAS-122 form to all service providers when obtained.

**12 VAC 30-120-1530. General requirements for home and community-based participating providers.**

A. Providers approved for participation shall, at a minimum, perform the following activities:

1. Immediately notify DMAS and DMHMRSAS, in writing, of any change in the information that the provider previously submitted to DMAS and DMHMRSAS;

2. Assure freedom of choice to individuals in seeking services from any institution, pharmacy, practitioner, or other provider qualified to perform the service or services required and participating in the Medicaid program at the time the service or services were performed;

3. Assure the individual's freedom to refuse medical care, treatment and services;

4. Accept referrals for services only when staff is available to initiate services and perform such services on an ongoing basis;

5. Provide services and supplies to individuals in full compliance with Title VI of the Civil Rights Act of 1964, as amended (42 USC § 2000d et seq.), which prohibits discrimination on the grounds of race, color, or national origin; the Virginians with Disabilities Act (§ 51.5-1 et seq. of the Code of Virginia); § 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), which prohibits discrimination on the basis of a disability; and the Americans with Disabilities Act, as amended (42 USC § 12101 et seq.), which provides comprehensive civil rights protections to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications;

6. Provide services and supplies to individuals of the same quality and in the same mode of delivery as provided to the general public;

7. Submit charges to DMAS for the provision of services and supplies to individuals in amounts not to exceed the provider's usual and customary charges to the general public and accept as payment in full the amount established by DMAS payment methodology from the individual's authorization date for the waiver services;

8. Use program-designated billing forms for submission of charges;

9. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope, and details of the services provided:

a. In general, such records shall be retained for at least six years from the last date of service or as provided by applicable state or federal laws, whichever period is longer. However, if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception resolved. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

b. Policies regarding retention of records shall apply even if the provider discontinues operation. DMAS shall be notified in writing of storage location and procedures for obtaining records for review should the need arise. The location, agent, or trustee shall be within the Commonwealth of Virginia;

10. Agree to furnish information on request and in the form requested to DMAS, DMHMRSAS, the Attorney General of Virginia or his authorized representatives, federal personnel, and the state Medicaid Fraud Control Unit. The Commonwealth's right of access to provider premises and records shall survive any termination of the provider agreement;

11. Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to recipients of Medicaid;

12. Hold confidential and use for authorized purposes only all medical assistance information regarding individuals served, pursuant to 42 CFR Part 431, Subpart F, 12 VAC 30-20-90, and any other applicable state or federal law.

13. Notify DMAS when ownership of the provider changes at least 15 calendar days before the date of change;

14. Properly report cases of suspected abuse or neglect. Pursuant to §§ 63.2-1509 and 63.2-1606 of the Code of Virginia, if a participating provider knows or suspects that a home and community-based waiver service individual is being abused, neglected, or exploited, the party having knowledge or suspicion of the abuse, neglect, or exploitation shall report this immediately from first knowledge to the local DSS adult or child protective services worker and to DMHMRSAS Offices of Licensing and Human Rights as applicable; and

15. Adhere to the provider participation agreement and the DMAS provider manual. In addition to compliance with the general conditions and requirements, all providers enrolled by DMAS shall adhere to the conditions of participation outlined in their individual provider participation agreements and in the DMAS provider manual.

B. Documentation requirements.

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# Emergency Regulations

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1. The case manager must maintain the following documentation for utilization review by DMAS for a period of not less than six years from each individual's last date of service:
    - a. The comprehensive assessment and all CSPs completed for the individual;
    - b. All ISPs from every provider rendering waiver services to the individual;
    - c. All supporting documentation related to any change in the CSP;
    - d. All related communication with the individual, family/caregiver, consultants, providers, DMHMRSAS, DMAS, DSS, DRS or other related parties; and
    - e. An ongoing log that documents all contacts made by the case manager related to the individual and family/caregiver.
    - f. A copy of the current DMAS-122 form.
  2. The service providers must maintain, for a period of not less than six years from the individual's last date of service, documentation necessary to support services billed. DMAS staff shall conduct utilization review of individual-specific documentation. This documentation shall contain, up to and including the last date of service, all of the following:
    - a. All assessments and reassessments.
    - b. All ISP's developed for that individual and the written reviews.
    - c. An attendance log that documents the date services were rendered and the amount and type of services rendered.
    - d. Appropriate data, contact notes, or progress notes reflecting an individual's status and, as appropriate, progress or lack of progress toward the goals on the ISP.
    - e. Any documentation to support that services provided are appropriate and necessary to maintain the individual in the home and in the community.
    - f. A copy of the current DMAS-122 form.
  - C. An individual's case manager shall not be the direct staff person or the immediate supervisor of a staff person who provides Day Support Waiver services for the individual.
- 12 VAC 30-120-1540. Participation standards for home and community-based waiver services participating providers.**
- A. Requests for provider participation will be screened to determine whether the provider applicant meets the basic requirements for participation.
  - B. For DMAS to approve provider agreements with home and community-based waiver providers, the following standards shall be met:
    1. Licensure and certification requirements pursuant to 42 CFR 441.302;
    2. Disclosure of ownership pursuant to 42 CFR 455.104 and 455.105; and
    3. The ability to document and maintain individual case records in accordance with state and federal requirements.
  - C. The case manager must inform the individual of all available waiver providers. The individual shall have the option of selecting the provider of his choice from among those providers meeting the individual's needs.
  - D. DMAS shall be responsible for assuring continued adherence to provider participation standards. DMAS shall conduct ongoing monitoring of compliance with provider participation standards and DMAS policies and periodically recertify each provider for participation agreement renewal with DMAS to provide home and community-based waiver services.
  - E. A participating provider may voluntarily terminate his participation in Medicaid by providing 30 days' written notification. DMAS may terminate at will a provider's participation agreement on 30 days written notice as specified in the DMAS participation agreement. DMAS may also immediately terminate a provider's participation agreement if the provider is no longer eligible to participate in the program. Such action precludes further payment by DMAS for services provided to individuals subsequent to the date of termination.
  - F. A provider shall have the right to appeal action taken by DMAS. Provider appeals shall be considered pursuant to 12 VAC 30-10-1000 and 12 VAC 30-20-500 through 12 VAC 30-20-560.
  - G. Section 32.1-325 D2 of the Code of Virginia mandates that "any such Medicaid agreement or contract shall terminate upon conviction of the provider of a felony." A provider convicted of a felony in Virginia or in any other of the 50 states or Washington, DC, must, within 30 days, notify the Medicaid Program of this conviction and relinquish its provider agreement. In addition, termination of a provider participation agreement will occur as may be required for federal financial participation.
  - H. Case manager's responsibility for the Individual Information Form (DMAS-122). It shall be the responsibility of the case management provider to notify DMHMRSAS and DSS, in writing, within five (5) business days of being informed of any of the circumstances described in (1) through (5) below:
    1. Home and community-based waiver services are initiated.
    2. A recipient dies.
    3. A recipient is discharged from Day Support Waiver services.
    4. Any other circumstances (including hospitalization) that cause home and community-based waiver services to cease or be interrupted for more than 30 days.
    5. A selection by the individual or family/caregiver of a different community services board/behavioral health authority providing case management services.

*I. Changes or termination of services. DMHMRSAS shall authorize changes to an individual's CSP based on the recommendations of the case management provider. Providers of direct service are responsible for modifying their Individual Service Plans (ISPs) with the involvement of the individual or family/caregiver, and submitting them to the case manager any time there is a change in the individual's condition or circumstances that may warrant a change in the amount or type of service rendered. The case manager will review the need for a change and may recommend a change to the ISP to the DMHMRSAS staff. DMHMRSAS will review and approve, deny, or pend for additional information the requested change to the individual's ISP, and communicate this to the case manager within 10 working days of receiving all supporting documentation regarding the request for change or in the case of an emergency, within 72 hours of receipt of the request for change.*

*The individual or family/caregiver will be notified, in writing, of the right to appeal the decision or decisions to reduce, terminate, suspend or deny services pursuant to DMAS client appeals regulations, Part I (12 VAC 30-110-10 et seq.) of 12 VAC 30-110. The case manager must submit this notification to the individual in writing within 12 days of the decision. All CSPs are subject to approval by the Medicaid agency.*

*1. In a nonemergency situation, the participating provider shall give the individual or family/caregiver and case manager 12 days prior written notice of the provider's intent to discontinue services. The notification letter shall provide the reasons why and the effective date the provider is discontinuing services. The effective date that services will be discontinued shall be at least 12 days from the date of the notification letter.*

*2. In an emergency situation, when the health and safety of the individual, other individuals in that setting, or provider personnel is endangered, the case manager and DMHMRSAS must be notified prior to the provider discontinuing services. The 12-day written notification period shall not be required. If appropriate, the local DSS adult protective services or child protective services and DMHMRSAS Offices of Licensing and Human Rights must be notified immediately.*

*3. In the case of termination of home and community-based waiver services by the CSB/BHA, DMHMRSAS or DMAS staff, individuals shall be notified of their appeal rights by the case manager pursuant to Part I (12 VAC 30-110-10 et seq.) of 12 VAC 30-110. The case manager shall have the responsibility to identify those individuals who no longer meet the level of care criteria or for whom home and community-based waiver services are no longer an appropriate alternative.*

**12 VAC 30-120-1550. Services: Day Support and Prevocational Services.**

**A. Service descriptions.**

*1. Day support means training, assistance, and specialized supervision in the acquisition, retention, or improvement of self-help, socialization, and adaptive skills, which typically take place outside the home in which the individual resides.*

*Day support services shall focus on enabling the individual to attain or maintain his maximum functional level.*

*2. Prevocational services means services aimed at preparing an individual for paid or unpaid employment, but are not job-task oriented. Prevocational services are provided to individuals who are not expected to be able to join the general work force without supports or to participate in a transitional sheltered workshop within one year of beginning waiver services (excluding supported employment programs). The services do not include activities that are specifically job-task oriented but focus on concepts such as accepting supervision, attendance, task completion, problem solving and safety. Compensation, if provided, is less than 50% of the minimum wage.*

**B. Criteria.**

*1. For day support services, individuals must demonstrate the need for functional training, assistance, and specialized supervision offered primarily in settings other than the individual's own residence that allow an opportunity for being productive and contributing members of communities.*

*2. For prevocational services, the individual must demonstrate the need for support in skills that are aimed toward preparation of paid employment that may be offered in a variety of community settings.*

**C. Service Levels.** *The amount and type of services included in the individual's service plan is determined according to the services required for that individual. There are two types of services: center-based, which is provided primarily at one location/building, and noncenter-based, which is provided primarily in community settings. Both types of services may be provided at either intensive or regular levels.*

**D. Intensive level criteria.** *To be authorized at the intensive level, the individual must meet at least one of the following criteria: (1) require physical assistance to meet the basic personal care needs (toileting, feeding, etc); (2) have extensive disability-related difficulties and requires additional, ongoing support to fully participate in programming and to accomplish his service goals; or (3) require extensive constant supervision to reduce or eliminate behaviors that preclude full participation in the program. In this case, written behavioral objectives are required to address behaviors such as, but not limited to, withdrawal, self-injury, aggression, or self-stimulation.*

**E. Service units.** *Services are billed in units. Units shall be defined as:*

- 1. One unit is 1 to 3.99 hours of service a day.*
- 2. Two units are 4 to 6.99 hours of service a day.*
- 3. Three units are 7 or more hours of service a day.*

**F. Service Limitations.**

*1. There must be separate supporting documentation for each service and each must be clearly differentiated in documentation and corresponding billing.*

*2. The supporting documentation must provide an estimate of the amount of services required by the individual. Service*

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# Emergency Regulations

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providers are reimbursed only for the amount and type of services included in the individual's approved ISP based on the setting, intensity, and duration of the service to be delivered.

3. Services shall be limited to a total of 780 units per CSP year. If an individual receives a combination of day support and prevocational services, the combined total shall not exceed 780 units per CSP year.

4. For day support services:

a. Day support cannot be regularly or temporarily provided in an individual's home or other residential setting (e.g., due to inclement weather or individual illness) without prior written approval from DMHMRSAS.

b. Noncenter-based day support services must be separate and distinguishable from other services.

G. Provider requirements. In addition to meeting the general conditions and requirements for home and community-based participating providers as specified in 12 VAC 30-120-217 and 12 VAC 30-120-219, service providers must meet the following requirements:

1. The provider of day support services must be licensed by DMHMRSAS as a provider of day support services. The provider of prevocational services must be a vendor of extended employment services, long-term employment services, or supported employment services for DRS, or be licensed by DMHMRSAS as a provider of day support services.

2. In addition to any licensing requirements, persons providing services are required to participate in training in the characteristics of mental retardation and appropriate interventions, training strategies, and support methods for persons with mental retardation and functional limitations. All providers of services must pass an objective, standardized test of skills, knowledge, and abilities approved by DMHMRSAS and administered according to DMHMRSAS' defined procedures.

3. Required documentation in the individual's record. The provider agency must maintain records of each individual receiving services. At a minimum these records must contain the following:

a. A functional assessment conducted by the provider to evaluate each individual in the service environment and community settings.

b. An ISP that contains, at a minimum, the following elements:

(1) The individual's strengths, desired outcomes, required or desired supports and training needs;

(2) The individual's goals and, for a training goal, a sequence of measurable objectives to meet the above identified outcomes;

(3) Services to be rendered and the frequency of services to accomplish the above goals and objectives;

(4) A timetable for the accomplishment of the individual's goals and objectives as appropriate;

(5) The estimated duration of the individual's needs for services; and

(6) The provider staff responsible for the overall coordination and integration of the services specified in the ISP.

c. Documentation confirming the individual's attendance and amount of time in services and specific information regarding the individual's response to various settings and supports as agreed to in the ISP objectives. An attendance log or similar document must be maintained that indicates the date, type of services rendered, and the number of hours and units provided.

d. Documentation indicating whether the services were center-based or non-center-based.

e. In instances where staff are required to ride with the individual to and from the service, the staff time can be billed as day support or prevocational services, provided that the billing for this time does not exceed 25% of the total time spent in the day support or prevocational activity for that day. Documentation must be maintained to verify that billing for staff coverage during transportation does not exceed 25% of the total time spent in the service for that day.

f. If intensive services are requested, documentation indicating the specific supports and the reasons they are needed. For ongoing intensive services, there must be clear documentation of the ongoing needs and associated staff supports.

g. The ISP goals, objectives, and activities must be reviewed by the provider quarterly, annually, and more often as needed and the results of the review submitted to the case manager. For the annual review and in cases where the ISP is modified, the ISP must be reviewed with the individual or family/caregiver.

h. Copy of the most recently completed DMAS-122 form. The provider must clearly document efforts to obtain the completed DMAS-122 form from the case manager.

i. For prevocational services, documentation regarding whether prevocational services are available in vocational rehabilitation agencies through § 110 of the Rehabilitation Act of 1973 or through the Individuals with Disabilities Education Act (IDEA). If the individual is not eligible for services through the IDEA, documentation is required only for lack of DRS funding. When services are provided through these sources, the ISP shall not authorize such services as a waiver expenditure. Prevocational services can only be provided when the individual's compensation is less than 50% of the minimum wage.

**12 VAC 30-120-1560 through 12 VAC 30-120-1590 (Reserved.)**

/s/ Mark R. Warner

Governor

Date: June 29, 2005

VA.R. Doc. No. R05-245; Filed June 30, 2005, 4:39 p.m.

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# GENERAL NOTICES/ERRATA

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## STATE CORPORATION COMMISSION

June 22, 2005

Administrative Letter 2005-12

TO: All Life Insurance Companies, Viatical Settlement Providers and Viatical Settlement Brokers Licensed in Virginia

RE: Withdrawal of Administrative Letter 1997-13 Dated November 7, 1997

Please be advised that Administrative Letter 1997-13 (Instructions for Applying for Viatical Settlement Provider and Viatical Settlement Broker Licenses) is withdrawn.

The 2003 Virginia General Assembly passed House Bill 2613, which repealed Chapter 57 of Title 38.2 of the Code of Virginia (Viatical Settlements Act) and replaced it with Chapter 60, effective July 1, 2003. Revisions to the Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers (14 VAC 5-71), which conformed the rules to Chapter 60, became effective November 1, 2003. As such, the guidance outlined in Administrative Letter 1997-13 is no longer applicable.

### **Guidance for Viatical Settlement Providers**

The Bureau of Insurance has available a document entitled Requirements for Operating in Virginia, which provides guidance to a person seeking to become licensed as a viatical settlement provider. This document may be obtained at the following web address:

<http://www.scc.virginia.gov/division/boi/webpages/inspagedocs/viaticalsettlementapplication.pdf>

or, a copy may be obtained by contacting James B. Ware (Company Licensing and Regulatory Compliance Section) at (804) 371-9801.

### **Guidance for Viatical Settlement Brokers**

The Bureau of Insurance also has available a document entitled Information and Procedures for Becoming Licensed as a Viatical Settlement Broker in Virginia, which provides guidance to a person seeking to become licensed as a viatical settlement broker. This document may be obtained at the following web address:

<http://www.scc.virginia.gov/division/boi/webpages/licenseforms/viatical.doc>

or, a copy may be obtained by contacting Linda Newsome (Agents Licensing Section at (804) 371-9631.

/s/ Alfred W. Gross  
Commissioner of Insurance

## HOUSE AND SENATE COMMITTEES ON GENERAL LAWS

### **Public-Private Education Facilities and Infrastructure Act - Notice of Public Comment**

The work group established to revise the model guidelines for the implementation of the Public-Private Education Facilities and Infrastructure Act of 2002 (the PPEA) invites the public to comment on its suggested revisions.

The PPEA grants responsible public entities the authority to create public-private partnerships for the development of a wide range of projects for public use if the public entities determine there is a need for the project and that private involvement may provide the project to the public in a timely or cost-effective fashion. The respective governing body of the public entity must first adopt guidelines that it will follow to receive and evaluate any proposal submitted to the public entity under the provisions of the PPEA. The legislation establishing the PPEA provided for the Chairs of the Senate and House Committees on General Laws to facilitate the development of model guidelines for implementation of the PPEA. The model guidelines were completed on September 30, 2002.

Senate Bill 1107, passed during the 2005 Session of the General Assembly, directed the Chairs of the House and Senate Committees on General Laws to facilitate the revision of model guidelines to include amendments made to the PPEA since 2002. The work group established to review the model guidelines and suggest revisions has completed its work and now invites the public to comment on the draft that has been developed.

A copy of the draft may be obtained from the following website: <http://dls.state.va.us/ppea.htm>. A copy may also be obtained by contacting Amigo Wade ([awade@leg.state.va.us](mailto:awade@leg.state.va.us)), Maria Everett ([meverett@leg.state.va.us](mailto:meverett@leg.state.va.us)) or Brian Stogdale ([bstogdale@leg.state.va.us](mailto:bstogdale@leg.state.va.us)) at the Division of Legislative Services, General Assembly Building, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 371-0169. Written comments may be submitted to the attention of Amigo Wade and must be received by 4:30 p.m. on August 15, 2005.

## STATE LOTTERY DEPARTMENT

### **Director's Orders**

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on June 29, 2005. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

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## General Notices/Errata

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### Director's Order Number Forty-Seven (05)

Virginia's Instant Game Lottery 659; "5 Times The Pay" (effective 6/23/05)

### Director's Order Number Forty-Eight (05)

Virginia's Instant Game Lottery 677; "Extreme Cash" (effective 6/23/05)

### Director's Order Number Forty-Nine (05)

Virginia's Instant Game Lottery 682; "Treasure Chest" (effective 6/23/05)

### Director's Order Number Fifty-Two (05)

Virginia's Instant Game Lottery 685; "Wild Card Tripler" (effective 6/23/05)

## STATE WATER CONTROL BOARD

### **Proposed Consent Special Order for Kim and Pak, Inc.**

Citizens may comment on a proposed consent order for a facility in Fauquier County, Virginia.

Public comment period: July 25, 2005, to August 24, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to Kim and Pak, Inc. acknowledging change of ownership and memorializing the corporation's agreement to address alleged violations of the sewage treatment plant by connecting to public sewer in 2006. Discharges of the plant are governed by permit number VA0029092. The location of the facility where the alleged violation occurred is 5021 Lee Hwy, New Baltimore, VA 20187. The facility cannot consistently meet permit limits and the order requires the owner to connect to the public sewer system.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ Woodbridge Office every workday by appointment or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Susan Oakes, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193,

telephone (703) 583-3863, FAX (703) 583-3841, or e-mail [saoakes@deq.virginia.gov](mailto:saoakes@deq.virginia.gov).

### **Proposed Consent Special Order for Twin Oaks Community, Inc.**

Citizens may comment on a proposed consent order for a facility in Louisa, Virginia.

Public comment period: July 25, 2005, to August 25, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to Twin Oaks Community, Inc. to address alleged violations of the Virginia Pollutant Discharge Elimination System Permit No. VA0088421. The location of the facility where the alleged violation occurred is 138 Twin Oaks Road. The consent order describes a settlement to resolve the facility's failure to submit required reports and to employ a licensed operator. It requires the submittal of reports, employment of a licensed contractor, and payment of a civil charge.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ Northern Virginia Regional Office every workday by appointment or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Carl Ciccarelli, DEQ Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3862, FAX (703) 583-3841, or e-mail: [cjccicarelli@deq.virginia.gov](mailto:cjccicarelli@deq.virginia.gov).

### **Proposed Consent Special Order for VA - Marshall III, L.L.C.**

Citizens may comment on a proposed consent order for a facility in Fairfax County, Virginia.

Public comment period: July 25, 2005, to August 24, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the



entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to VA – Marshall III, L.L.C. to address alleged violations of the John Marshall III site governed by permit number VA0090093. The location of the facility where the alleged violation occurred is 8251 Greensboro Drive, Suite B100, McLean, Virginia 22102. The consent order describes a settlement to resolve the failure to submit a completed permit application and other permit required documentation in a timely fashion. It requires implementation of a written procedure, additional monitoring report submittals and payment of a civil charge.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ Woodbridge Office every work day by appointment or on the DEQ website at [www.deq.virginia.gov](http://www.deq.virginia.gov).

Contact for public comments, document requests and additional information: Susan Oakes, Northern Virginia Regional Office, 13901 Crown Ct, Woodbridge, VA 22193, telephone (703) 583-3863, FAX (703) 583-3841, or e-mail [saoakes@deq.virginia.gov](mailto:saoakes@deq.virginia.gov).

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

### Forms for Filing Material for Publication in the Virginia Register of Regulations

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01  
NOTICE of COMMENT PERIOD-RR02  
PROPOSED (Transmittal Sheet)-RR03  
FINAL (Transmittal Sheet)-RR04

EMERGENCY (Transmittal Sheet)-RR05  
NOTICE of MEETING-RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08  
RESPONSE TO PETITION FOR RULEMAKING-RR13  
FAST-TRACK RULEMAKING ACTION-RR14

## ERRATA

### BOARD FOR OPTICIANS

Title of Regulation: 18 VAC 100-20. Board for Opticians Regulations.

Publication: 21:20 VA.R. 2708-2709 June 13, 2005.

Correction to Final Regulation:

Page 2708, 18 VAC 100-20-54 A, line 6, replace "§ 2.2-3700 et seq." with "§ 2.2-4300 et seq."

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# CALENDAR OF EVENTS

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## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*  
♿ Location accessible to persons with disabilities  
☎ Teletype (TTY)/Voice Designation

### NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at [www.vipnet.org](http://www.vipnet.org) or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD OF ACCOUNTANCY

NOTE: CHANGE IN MEETING TIME

**July 26, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, Room 395, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

A meeting to discuss general business matters. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail [boa@boa.virginia.gov](mailto:boa@boa.virginia.gov).

† **July 29, 2005 - 9 a.m.** -- Open Meeting

† **August 12, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, Suite 378, Richmond, Virginia.♿

An informal fact-finding conference.

**Contact:** Jean Grant, Enforcement Coordinator/Investigator, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230-4923, telephone (804) 367-0725, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail [jean.grant@boa.virginia.gov](mailto:jean.grant@boa.virginia.gov).

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Virginia Agricultural Council

† **August 29, 2005 - 8 a.m.** -- Open Meeting

† **August 30, 2005 - 8 a.m.** -- Open Meeting

Comfort Suites, 80 Prosperity Avenue, Leesburg, Virginia.♿

Annual meeting when the council will (i) review grant projects as to progress and results; (ii) review the financial status of the council for the current fiscal year and plans for the coming year; and (iii) visit project sites approved by council action in Loudoun, Clarke, and Frederick counties. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Donald Ayers at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Donald Ayers, Executive Director, Virginia Agriculture Council, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-0480, FAX (804) 371-8372, toll-free (800) 828-1120, (800) 828-1120/TTY☎, e-mail [donald.ayers@vdacs.virginia.gov](mailto:donald.ayers@vdacs.virginia.gov).

### Virginia Soybean Board

**August 23, 2005 - 3 p.m.** -- Open Meeting

Corbin Hall Farm, 2936 Corbin Hall Drive, Waterview, Virginia.♿

A meeting to discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 2005, and hear and approve the minutes of the March 10, 2005, meeting. Reports will also be heard from the chairman, United Soybean Board representatives, and other committees. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days

before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

**Contact:** Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phil.hickman@vdacs.virginia.gov.

## SECRETARY OF AGRICULTURE AND FORESTRY

### Biodiesel Work Group (HJR 598)

**August 8, 2005 - 9:30 a.m.** -- Open Meeting

† **August 9, 2005 - 9:30 a.m.** -- Open Meeting  
Virginia Farm Bureau Federation, 12580 West Creek Parkway, Richmond, Virginia. 

The meeting will be a listening session on the use and production of biodiesel fuel in the Commonwealth. Invitees will present an overview and discuss various aspects of the use and production of biodiesel in Virginia. The Biodiesel Work Group will entertain public comment at the conclusion of all other business on August 9, 2005, for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Perida Giles at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation

**Contact:** Perida Giles, Senior Policy Analyst, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 786-5175, FAX (804) 371-2945, e-mail perida.giles@vdacs.virginia.gov.


## STATE AIR POLLUTION CONTROL BOARD

**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-50, New and Modified Stationary Sources; 9 VAC 5-60, Hazardous Air Pollutant Sources; and 9 VAC 5-80, Permits for Stationary Sources (Rev. K04)**. The purpose of the proposed action is to convert from a permit applicability approach that looks at the changes from a sourcewide perspective to determine applicability to an approach that looks at each physical or operational change to the source individually to determine applicability. Currently applicability is based on the net emissions increase in actual emissions based on all the sourcewide emissions changes directly resultant from the physical or operational change. The revised program would base permit applicability on the uncontrolled emissions from each individual physical or operational change to the source.


Statutory Authority: § 10.1-1308 of the Code of Virginia.

**Contact:** Robert A. Mann, Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510 or e-mail ramann@deq.virginia.gov.

**August 10, 2005 - 1:30 p.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A public meeting to receive comment on a notice of intent to amend the regulations for the control and abatement of air pollution for the clean air mercury rule. The notice of intent appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 11, 2005, and ends on August 10, 2005.


**Contact:** Mary E. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, e-mail memajor@deq.virginia.gov.

**August 10, 2005 - 1:30 p.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A public meeting to receive comments on the notice of intent to amend 9 VAC 5-140, Regulation for Emissions Trading (Rev. E05), the regulations for the control and abatement of air pollution concerning the clean air interstate rule (Rev. E05). The notice of intent appears in the Virginia Register of Regulations on July 11, 2005. The comment period begins on July 11, 2005, and closes on August 10, 2005.

**Contact:** Mary E. Major, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, e-mail memajor@deq.virginia.gov.

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**August 17, 2005 - 4 p.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

**September 12, 2005** - Public comments may be received until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-50, New and Modified Stationary Sources and 9 VAC 5-80, Permits for Stationary Sources (Rev E05)**. The purpose of the proposed action is to consider amending the regulations that govern permitting for new major stationary sources and major modifications in order to meet the new source reform requirements of 40 CFR Part 51. Public comments may be submitted until 5 p.m. on September 12, 2005.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

**Contact:** Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, e-mail kgsabastea@deq.virginia.gov.

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# Calendar of Events

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## Small Business Environmental Compliance Advisory Board

† September 28, 2005 - 10 a.m. -- Open Meeting

Location to be announced.

A regular meeting. A location has not been determined and the time is tentative.

**Contact:** Richard Rasmussen, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394, FAX (804) 698-4264, e-mail rgrasmussen@deq.virginia.gov.

## ALCOHOLIC BEVERAGE CONTROL BOARD

August 1, 2005 - 9 a.m. -- Open Meeting

August 15, 2005 - 9 a.m. -- Open Meeting


August 29, 2005 - 9 a.m. -- Open Meeting

September 12, 2005 - 9 a.m. -- Open Meeting


September 26, 2005 - 9 a.m. -- Open Meeting

October 11, 2005 - 9 a.m. -- Open Meeting

† October 24, 2005 - 9 a.m. -- Open Meeting


Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.


**Contact:** W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail curtis.coleburn@abc.virginia.gov.

## ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

September 20, 2005 - 10 a.m. -- Open Meeting


Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.


**Contact:** Cecily Slasor, I and R Specialist, Alzheimer's Disease and Related Disorders Commission, 1610 Forest Ave., Ste. 100, Richmond, VA 23229, telephone (804) 662-9338, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail cecily.slasor@vda.virginia.gov.

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS


† July 26, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 


An informal fact-finding conference.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail apelscidla@dpor.virginia.gov.


July 28, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail apelscidla@dpor.virginia.gov.


August 2, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail apelscidla@dpor.virginia.gov.

August 4, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified

Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**August 9, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**August 11, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

**September 8, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the full board to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX

(804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelscidla@dpor.virginia.gov](mailto:apelscidla@dpor.virginia.gov).

## ART AND ARCHITECTURAL REVIEW BOARD

**August 5, 2005 - 10 a.m.** -- Open Meeting

**September 9, 2005 - 10 a.m.** -- Open Meeting

**October 7, 2005 - 10 a.m.** -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at [www.dgs.state.va.us](http://www.dgs.state.va.us). Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

**Contact:** Richard L. Ford, AIA Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, (804) 786-6152/TTY ☎, or e-mail [rford@comarchs.com](mailto:rford@comarchs.com).

## VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

**August 17, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

**Contact:** David E. Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail [alhi@dpor.virginia.gov](mailto:alhi@dpor.virginia.gov).

## COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

### State Executive Council

**September 14, 2005 - 9 a.m.** -- Open Meeting

Location to be announced.

A regular meeting. The meeting will adjourn by noon.


**Contact:** Kim McGaughey, Executive Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9830, FAX (804) 662-9831.

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# Calendar of Events

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## AUCTIONEERS BOARD

**October 6, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [auctioneers@dpor.virginia.gov](mailto:auctioneers@dpor.virginia.gov).


## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**August 18, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

A meeting to discuss issues and matters related to audiology and speech-language pathology.

**Contact:** Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.virginia.gov](mailto:elizabeth.young@dhp.virginia.gov).


## VIRGINIA AVIATION BOARD

**August 17, 2005 - 9 a.m.** -- Open Meeting  
Ramada Plaza Resort Oceanfront, 5700 Atlantic Avenue,  
Virginia Beach, Virginia. 


The 2005 Virginia Aviation Conference will be held August 17-19, 2005. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.


**Contact:** Carolyn Toth, Executive Assistant, Department of Aviation, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3626, FAX (804) 236-3635, e-mail [carolyn.toth@doav.virginia.gov](mailto:carolyn.toth@doav.virginia.gov).

## BOARD FOR BARBERS AND COSMETOLOGY


**July 28, 2005 - 9 a.m.** -- Open Meeting  
**† September 8, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. 

An informal fact-finding conference.


**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

**August 15, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Conference Room 4W,  
Richmond, Virginia. 

A meeting to conduct general business and consider regulatory issues as may be presented. A portion of the meeting may be held in closed session. A public comment period will be held at the beginning of the meeting. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail [barbercosmo@dpor.virginia.gov](mailto:barbercosmo@dpor.virginia.gov).

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**August 15, 2005 - 1 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

**August 26, 2005** - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled **18 VAC 41-30, Hair Braiding Regulations**. The purpose of the proposed regulations is to promulgate regulations governing the licensure and practice of hair braiding as mandated by Chapter 600 of the 2003 Acts of Assembly.

Statutory Authority: § 54.1-201 and Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia.


**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail [william.ferguson@dpor.virginia.gov](mailto:william.ferguson@dpor.virginia.gov).

## DEPARTMENT FOR THE BLIND AND VISION IMPAIRED


### Statewide Rehabilitation Council for the Blind

† **September 17, 2005 - 10 a.m.** -- Open Meeting  
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Rooms 1 and 2, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly meeting to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

**Contact:** Susan D. Payne, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail [susan.payne@dbvi.virginia.gov](mailto:susan.payne@dbvi.virginia.gov).


### BOARD FOR BRANCH PILOTS

**July 29, 2005 - 9 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 


A meeting to conduct general business. A portion of the meeting may be held in closed session. A public comment period will be held at the beginning of the meeting. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [branchpilots@dpor.virginia.gov](mailto:branchpilots@dpor.virginia.gov).


### CEMETERY BOARD

† **October 19, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia. 

A meeting to discuss board business.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [oneal@dpor.virginia.gov](mailto:oneal@dpor.virginia.gov).

### CHARITABLE GAMING BOARD

**September 13, 2005 - 10 a.m.** -- Open Meeting  
Science Museum of Virginia, 2500 West Broad Street, Discovery Room, Richmond, Virginia. 

A regular quarterly meeting.

**Contact:** Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail [clyde.cristman@dcbg.virginia.gov](mailto:clyde.cristman@dcbg.virginia.gov).

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**July 25, 2005 - 10 a.m.** -- Open Meeting  
Department of Conservation and Recreation, James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A committee meeting to discuss policy issues and direction for board activities.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

**August 9, 2005 - 10 a.m.** -- Open Meeting

† **October 25, 2005 - 10 a.m.** -- Open Meeting  
Department of Conservation and Recreation, James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

The Northern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the northern area.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

**August 9, 2005 - 2 p.m.** -- Open Meeting

† **October 25, 2005 - 2 p.m.** -- Open Meeting  
Department of Conservation and Recreation, James Monroe Building, 101 North 14th St., 17th Floor Conference Room, Richmond, Virginia.

The Southern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the southern area.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

**September 19, 2005 - 10 a.m.** -- Open Meeting

Location to be announced.

A regular business meeting and review of local programs.


**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

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
# Calendar of Events

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## CHILD DAY-CARE COUNCIL

**September 8, 2005 - 10 a.m.** -- Open Meeting  
Department of Social Services, 7 North 8th Street, 6th Floor  
Conference Room, Richmond, Virginia. 

A regular business meeting.

**Contact:** Pat Rengnerth, State Board Liaison, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , e-mail [patricia.rengnerth@dss.virginia.gov](mailto:patricia.rengnerth@dss.virginia.gov).


## STATE CHILD FATALITY REVIEW TEAM

**September 9, 2005 - 10 a.m.** -- Open Meeting  
Office of the Chief Medical Examiner, 400 East Jackson  
Street, Richmond, Virginia. 


The business portion of the meeting is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.


**Contact:** Virginia Powell, Coordinator, Department of Health, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail [angela.myrick@vdh.virginia.gov](mailto:angela.myrick@vdh.virginia.gov).

## STATE BOARD FOR COMMUNITY COLLEGES


**September 14, 2005 - 9 a.m.** -- Open Meeting  
Virginia Community College System, James Monroe Building,  
101 North 14th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, and Budget and Finance Committee begin at 1:30 p.m. The Facilities Committee and the Audit Committee will meet at 3 p.m. The Personnel Committee will meet at 3:30 p.m. The Executive Committee will meet at 5 p.m.


**Contact:** D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

**September 15, 2005 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

**Contact:** D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

## COMMONWEALTH COMPETITION COUNCIL

**† July 27, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced.  (Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Peggy R. Robertson, Acting Executive Director, Commonwealth Competition Council, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 786-3812, FAX (804) 225-3291, e-mail [peggy.robertson@dpb.virginia.gov](mailto:peggy.robertson@dpb.virginia.gov).

## DEPARTMENT OF CONSERVATION AND RECREATION

**July 26, 2005 - 7 p.m.** -- Open Meeting  
Powhatan County High School 1800 Judes Ferry Road  
Powhatan, VA

A meeting of the Powhatan State Park Master Plan Advisory Committee to continue discussion of the proposed plans for a new state park in Powhatan County.

**Contact:** Robert S. Munson, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 371-7899, e-mail [robert.munson@dcr.virginia.gov](mailto:robert.munson@dcr.virginia.gov).

## Falls of the James Scenic River Advisory Committee

**August 11, 2005 - Noon** -- Open Meeting  
**September 8, 2005 - Noon** -- Open Meeting  
**† October 13, 2005 - Noon** -- Open Meeting  
Richmond City Hall, 5th Floor Conference Room, Richmond, Virginia.

A regular meeting to discuss river issues.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

## Virginia Soil and Water Conservation Board

**September 15, 2005 - 9:30 a.m.** -- Open Meeting  
Location to be determined.

A regular business meeting to discuss soil and water, stormwater management and dam safety issues.

**Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).



## BOARD FOR CONTRACTORS


**July 26, 2005 - 9 a.m.** -- Open Meeting

**July 28, 2005 - 9 a.m.** -- Open Meeting


**August 4, 2005 - 9 a.m.** -- Open Meeting

† **August 10, 2005 - 1:30 p.m.** -- Open Meeting

**August 25, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

Informal fact-finding conferences.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

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**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to amend regulations entitled **18 VAC 50-22, Board for Contractors Regulations**. The purpose of the proposed action is to amend the current regulations to reflect statutory changes, respond to changes in the industry and revise language for clarity and ease of use.


Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail [eric.olson@dpor.virginia.gov](mailto:eric.olson@dpor.virginia.gov).

**August 10, 2005 - 10 a.m.** -- Open Meeting


Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Tradesman and Education Committee to conduct committee business. The department fully complies with the Americans with Disabilities Act.


**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

**August 30, 2005 - 9 a.m.** -- Open Meeting

† **October 18, 2005 - 9 a.m.** -- Open Meeting


Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-2785 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [contractors@dpor.virginia.gov](mailto:contractors@dpor.virginia.gov).

## BOARD OF CORRECTIONAL EDUCATION

† **September 16, 2005 - 10 a.m.** -- Open Meeting


James Monroe Building, 101 North 14th Street, 7th Floor,  
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Department of Correctional Education, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314, FAX (804) 786-7642, (804) 371-8647/TTY , e-mail [patricia.ennis@dce.virginia.gov](mailto:patricia.ennis@dce.virginia.gov).

## BOARD OF CORRECTIONS

**September 20, 2005 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor  
Board Room, Richmond, Virginia. 

A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail [woodhousebl@vadoc.virginia.gov](mailto:woodhousebl@vadoc.virginia.gov).


**September 20, 2005 - 1 p.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor,  
Room 3054, Richmond, Virginia. 

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail [woodhousebl@vadoc.virginia.gov](mailto:woodhousebl@vadoc.virginia.gov).


**September 21, 2005 - 9:30 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor  
Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail [woodhousebl@vadoc.virginia.gov](mailto:woodhousebl@vadoc.virginia.gov).

**September 21, 2005 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor  
Board Room, Richmond, Virginia. 

A regular meeting of the full board to review and discuss all matters considered by board committees that require action by the board.

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# Calendar of Events

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**Contact:** Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.virginia.gov.

## BOARD OF COUNSELING

**July 29, 2005** - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to amend regulations entitled **18 VAC 115-20, Regulations Governing the Practice of Professional Counseling; 18 VAC 115-50, Regulations Governing the Practice of Marriage and Family Therapy; 18 VAC 115-60, Regulations Governing the Licensure of Substance Abuse Treatment Practitioners.** The purpose of the proposed action is to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Evelyn B. Brown, Executive Director, Board of Counseling, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.


## CRIMINAL JUSTICE SERVICES BOARD

**September 8, 2005 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the Committee on Training.

**Contact:** Leon D. Baker, Jr., Division Director, Department of Criminal Justice Services, Eighth Street Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.virginia.gov.

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**September 8, 2005 - 9 a.m.** -- Public Hearing  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 


**September 9, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled **6 VAC 20-240, Regulations Relating to School Security Officers.** The purpose of the proposed action is to identify compulsory minimum standards for employment, entry-level and in-

service training requirements and certification requirements for school security officers.

**Statutory Authority:** § 9.1-102 of the Code of Virginia.


**Contact:** Donna Bowman, Manager, Virginia Center for School Safety, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-6506, FAX (804) 371-8981, or e-mail donna.bowman@dcjs.virginia.gov.

**September 8, 2005 - 11 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 


A meeting to conduct general board business.

**Contact:** Leon D. Baker, Jr., Division Director, Department of Criminal Justice Services, Eighth Street Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.virginia.gov.

## DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

**August 3, 2005 - 10 a.m.** -- Open Meeting  
Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, 2nd Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly meeting of the advisory board.


**Contact:** Leslie Hutcheson Prince, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23235, telephone (804) 662-9703, toll-free (800) 552-7917, (804) 662-9703/TTY , e-mail leslie.prince@vddhh.virginia.gov.

## BOARD OF DENTISTRY

**August 12, 2005 - 9 a.m.** -- Open Meeting  
**August 26, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Special Conference Committee to hold informal conferences. There will not be a public comment period.

**Contact:** Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

**September 16, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, Richmond, Virginia. 

A meeting to discuss business issues. There will be a public comment period at the beginning of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor,

Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

## DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

**August 18, 2005 - 11 a.m.** -- Open Meeting  
**September 15, 2005 - 11 a.m.** -- Open Meeting  
**† October 20, 2005 - 11 a.m.** -- Open Meeting  
Department of General Services, Eighth Street Office Building, 805 East Broad Street, 3rd Floor, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use design-build or construction-management-type contracts. Contact the Division of Engineering and Building to confirm the meeting.

**Contact:** Rhonda M. Bishton, Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, or e-mail [rhonda.bishton@dgs.virginia.gov](mailto:rhonda.bishton@dgs.virginia.gov).

## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

**July 27, 2005 - 7:30 a.m.** -- Open Meeting  
901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Richmond, Virginia. ♿

**† August 8, 2005 - 2 p.m.** -- Open Meeting  
901 East Byrd Street, Riverfront Plaza, West Tower, 20th Floor, Richmond, Virginia. ♿

A meeting of the Finance Committee.

**Contact:** Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8108, FAX (804) 371-8112, e-mail [kellelt@yesvirginia.org](mailto:kellelt@yesvirginia.org).

**July 27, 2005 - 9 a.m.** -- Open Meeting  
901 East Byrd Street, West Tower, Presentation Center, 20th Floor, Richmond, Virginia. ♿

A meeting of the Search Committee to focus on the selection of a new executive director; interviews will be held for this position.

**Contact:** Kim Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108, FAX (804) 371-8112, e-mail [ellet1@comcast.net](mailto:ellet1@comcast.net).

**† August 8, 2005 - 9 a.m.** -- Open Meeting  
Riverfront Plaza, 901 East Byrd Street, West Tower, 19th Floor, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8108, FAX (804) 371-8112, e-mail [kellelt@yesvirginia.org](mailto:kellelt@yesvirginia.org).

## BOARD OF EDUCATION

**July 27, 2005 - 9 a.m.** -- Open Meeting  
**September 21, 2005 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia. ♿

A regular business meeting of the board. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time or location. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 72 hours in advance.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [margaret.roberts@doe.virginia.gov](mailto:margaret.roberts@doe.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**† August 3, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

The final meeting of the permit program peer review teams to review VWP-specific process maps, review the information from interviews and the survey, and priority opportunities to improve permitting and compliance programs.

**Contact:** Kathy R. Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail [krfrahm@deq.virginia.gov](mailto:krfrahm@deq.virginia.gov).

**† August 3, 2005 - 1 p.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

Final meeting of the permit program peer review teams will meet to review solid waste-specific process maps, review the information from interviews and the survey, and priority opportunities to improve permitting and compliance programs.

**Contact:** Kathy R. Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail [krfrahm@deq.virginia.gov](mailto:krfrahm@deq.virginia.gov).

**† August 4, 2005 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿


Final meeting of the permit program peer review teams to review air and hazardous waste process maps, review the information from interviews and the survey, and priority opportunities to improve permitting and compliance programs.

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## Calendar of Events


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**Contact:** Kathy R. Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail [krfracm@deq.virginia.gov](mailto:krfracm@deq.virginia.gov).

**August 4, 2005 - 7 p.m.** -- Open Meeting  
Eastern Montgomery High School, 4695 Crozier Road, Elliston, Virginia. 


A public meeting on the development of a bacteria TMDL for impaired segments in the Roanoke River Watershed located in Roanoke City and Montgomery, Bedford and Franklin counties. The public notice appears in the Virginia Register on July 11, 2005. The public comment period begins on August 4, 2005, and closes on September 9, 2005.

**Contact:** Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail [jrhill@deq.virginia.gov](mailto:jrhill@deq.virginia.gov).

**August 9, 2005 - 7 p.m.** -- Open Meeting  
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. 

A public meeting to discuss a study to restore water quality in the Roanoke River Watershed for segments impaired for bacteria located in Roanoke City and the counties of Montgomery, Bedford and Franklin. The public notice appeared in the Virginia Register of Regulations on July 11, 2005. The public comment period begins on August 9, 2005, and closes on September 9, 2005.

**Contact:** Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail [jrhill@deq.virginia.gov](mailto:jrhill@deq.virginia.gov).

**August 16, 2005 - 7 p.m.** -- Open Meeting  
Smith Mountain Lake 4-H Center, W.E. Skelton Educational Conference Center, Wirtz, Virginia. 

The first public meeting on the development of bacteria TMDLs for impaired waters in the Pigg River Watershed located in Pittsylvania, Franklin and Campbell counties. The public notice appeared in the Virginia Register of Regulations on July 11, 2005. The comment period begins on August 16, 2005, and ends on September 16, 2005.

**Contact:** Mary R. Dail, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, e-mail [mrddail@deq.virginia.gov](mailto:mrddail@deq.virginia.gov).


### Litter Control and Recycling Fund Advisory Board

**† October 12, 2005 - 10:30 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A regular meeting.

**Contact:** G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4224, e-mail [gscocoe@deq.virginia.gov](mailto:gscocoe@deq.virginia.gov).

### VIRGINIA FIRE SERVICES BOARD


**† August 19, 2005 - 10 a.m.** -- Open Meeting  
Hampton Convention Center, Hampton, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the following committees:

10 a.m. - Committee on Fire Education and Training  
1 p.m. - Committee on Fire Prevention and Control  
2:30 p.m. - Committee on Administration, Policy and Finance

The VFSB members will be attending multiple functions relating to the VSFA Convention. No public business will be discussed at this time.


**Contact:** Nausheen Khan, Clerk and Research Assistant, Virginia Fire Services Board, 1005 Technology Park Dr., Glen Allen, VA 23059, telephone (804) 371-0220, FAX (804) 371-3408, e-mail [nausheen.khan@vdfp.virginia.gov](mailto:nausheen.khan@vdfp.virginia.gov).

**† August 20, 2005 - 9 a.m.** -- Open Meeting  
Hampton Convention Center, Hampton, Virginia.  (Interpreter for the deaf provided upon request)


The VFSB members will be attending various activities associated with the VSFA Convention. No public business will be discussed at this time.

**Contact:** Nausheen Khan, VFSB Clerk and Research Assistant, Virginia Fire Services Board, 1005 Technology Park Drive, Glen Allen VA 23059, telephone (804) 371-0220, FAX (804) 371-3418, e-mail [nausheen.khan@vdfp.virginia.gov](mailto:nausheen.khan@vdfp.virginia.gov).

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**† July 26, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room #1, Richmond, Virginia. 

The Special Conference Committee will meet to hear possible violations of the laws and regulations that govern the practice of funeral service.


**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.virginia.gov](mailto:elizabeth.young@dhp.virginia.gov).

### BOARD OF GAME AND INLAND FISHERIES

**† July 27, 2005 - 6 p.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Policy Committee.

**Contact:** Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-9231, e-mail [belle.harding@dgif.virginia.gov](mailto:belle.harding@dgif.virginia.gov).

† **July 28, 2005 - 8 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Search Committee.


**Contact:** Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-9231, e-mail belle.harding@dgif.virginia.gov.

† **July 28, 2005 - 9 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond Virginia.  (Interpreter for the deaf provided upon request)


A meeting continue to work to respond to the corrective action plan outlined in response to the May 23, 2005, State Fraud, Waste and Abuse Hotline Report that was issued by the Office of the State Internal Auditor. Additionally, the board intends to hear a staff report on deer management/farming practices in states surrounding Virginia's border. The board has also requested follow-up on concerns presented by citizens at its June meeting relative to a locality's authority to enact local ordinances regarding firearms use.

**Contact:** Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond Virginia 23230, telephone (804) 367-9231, e-mail belle.harding@dgif.virginia.gov.

## BOARD FOR GEOLOGY

**July 27, 2005 - 9 a.m.** -- Open Meeting  
**October 12, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

**Contact:** David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail geology@dpor.virginia.gov.

## STATE BOARD OF HEALTH

**August 29, 2005** - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to repeal regulations entitled **12 VAC 5-480, Radiation Protection Regulations** and adopt regulations entitled **12 VAC 5-481, Virginia Radiation Protection Regulations**. The purpose of the proposed action is to comprehensively amend the regulations in light of the most current safety considerations.

Statutory Authority: § 32.1-229 of the Code of Virginia.

**Contact:** Les Foldesi, Director, Radiological Health Program, Department of Health, 109 Governor St., Richmond, VA


23219, telephone (804) 864-8150, FAX (804) 864-7902 or e-mail les.foldesi@vdh.virginia.gov.

## DEPARTMENT OF HEALTH

† **July 27, 2005 - 10 a.m.** -- Open Meeting  
Fan Free Clinic, 1010 N. Thompson St., Richmond, Virginia. 

A meeting to prepare a statewide care plan regarding HIV healthcare services.

**Contact:** Ben Alonso, Health Care Planner, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-8022, e-mail ben.alonso@vdh.virginia.gov.


† **July 28, 2005 - 10 a.m.** -- Open Meeting  
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia. 

A meeting of the AIDS Drug Assistance Program Advisory Committee.

**Contact:** Faye Bates, RN, ADAP Coordinator, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-8019, e-mail faye.bates@vdh.virginia.gov.

† **October 21, 2005 - 10 a.m.** -- Open Meeting  
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Virginia Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program. The advisory committee meets four times a year.

**Contact:** Pat T. Dewey, Program Manager, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7713, FAX (804) 864-7721, toll-free (866) 493-1090, (800) 828-1120/TTY , e-mail pat.dewey@vdh.virginia.gov.

## Hemophilia Advisory Board

† **September 23, 2005 - 10 a.m.** -- Open Meeting  
State Corporation Commission Building, 1300 E. Main Street, Richmond, Virginia.

Discussion of hemophilia-related issues, statistics and reports. Other matters are not yet determined.

**Contact:** Jan Kuhn, Program Nurse Manager, or Tamara Quarles, Program Specialist, Department of Health, P.O. Box 980461, telephone (804) 827-3306, FAX (804) 692-0291, toll-free (866) 228-2516, e-mail jgkuhn@mail2.vcu.edu or tsquarles@vcu.edu.

## BOARD OF HEALTH PROFESSIONS

**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to amend regulations entitled **18 VAC 76-40,**

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# Calendar of Events

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**Regulations Governing the Emergency Contact Information.** The purpose of the proposed action is to include licensed athletic trainers among the professions required to report emergency contact information.

Statutory Authority: § 54.1-2506.1 of the Code of Virginia.


Public comments may be submitted until July 29, 2005, to Robert A. Nebiker, Director, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

## DEPARTMENT OF HEALTH PROFESSIONS

**August 19, 2005 - 9 a.m.** -- Open Meeting

† **October 21, 2005 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, Board Room 3, Richmond, Virginia. 

A meeting of the Health Practitioners' Intervention Program Committee.

**Contact:** Peggy W. Call, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail [peggy.call@dhp.virginia.gov](mailto:peggy.call@dhp.virginia.gov).

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**September 12, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Council of Higher Education for Virginia intends to amend regulations entitled **8 VAC 40-20, Regulations for the Senior Citizen Higher Education Program**. The purpose of the proposed action is to conform the regulations with the enabling statute, § 23-38.56 of the Code of Virginia, by providing clarifying language and by incorporating changes from Chapters 381, 521, and 700 of the Acts of Assembly.

Statutory Authority: § 23-38.56 of the Code of Virginia.


**Contact:** Rick Patterson, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2609, FAX (804) 225-2604, or e-mail [rickpatterson@schev.edu](mailto:rickpatterson@schev.edu).

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **July 26, 2005 - 9:30 a.m.** -- Open Meeting


Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia.

A meeting of the Codes and Standards Committee to continue to review proposed amendments to proposed building and fire code regulations.


**Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

NOTE: CHANGE IN MEETING TIME

**July 26, 2005 - 11 a.m.** -- Open Meeting

Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. 

A meeting to conduct general business.


**Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**July 27, 2005 - 11 a.m.** -- Open Meeting

601 South Belvidere Street, Richmond, Virginia. 

The annual meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will elect a Chairman and Vice Chairman; will review and, if appropriate, approve the minutes from the prior meeting; may consider for approval and ratification mortgage loan commitments under its various programs; will review the Authority's operations for the prior months; and will consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Audit/Operations Committee, the Executive Committee, and the Committee of the Whole, may also meet during the day preceding the meeting and before and after the meeting and may consider matters within their purview. The committees and the board may also meet during meals on the night before the meeting and on the day of the meeting. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting. The annual meeting of the shareholders and Board of Directors of Housing for Virginia, Inc., a corporation wholly owned by the Authority, will be held following the meeting of the Authority's Board of Commissioners.


**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY .

## VIRGINIA INFORMATION TECHNOLOGIES AGENCY

### Information Technology Investment Board

† **August 10, 2005 - 1 p.m.** -- Open Meeting


† **October 5, 2005 - 1 p.m.** -- Open Meeting

Virginia Information Technologies Agency Operations Center, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. 

A regular meeting.

**Contact:** Jennifer W. Hunter, Interim IT Investment Board Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9015, e-mail jenny.hunter@vita.virginia.gov.

† **September 8, 2005 - 1 p.m.** -- Open Meeting

Virginia Information Technologies Agency Operations Center, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. 

A special meeting in closed session to review and approve the recommendations of the Enterprise Applications PPEA Steering Committee to proceed (or not) into negotiation phase. For more information on PPEA, visit <http://www.vita.virginia.gov/ppea/ppea.cfm>.

**Contact:** Jennifer W. Hunter, Interim IT Investment Board Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9015, e-mail jenny.hunter@vita.virginia.gov.

### E-911 Wireless Services Board

**September 14, 2005 - 9 a.m.** -- Open Meeting

110 South 7th Street, 1st Floor, Telecommunications Conference Room, Suite 100, Richmond, Virginia.

A subcommittee meeting. A request will be made to hold the meeting in closed session.

**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

**September 14, 2005 - 10 a.m.** -- Open Meeting

110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia.

A regular board meeting.


**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

## JAMESTOWN-YORKTOWN FOUNDATION


NOTE: CHANGE IN MEETING DATE

**August 2, 2005 - Noon** -- Open Meeting


† **October 12, 2005 - Noon** -- Open Meeting

Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Call contact below for specific meeting location.

**Contact:** Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, (757) 253-5110/TTY , e-mail judith.leonard@jyf.virginia.gov.

† **August 9, 2005 - 12 p.m.** -- Open Meeting

Patrick Henry Building, 1111 East Broad Street, Room 4 West, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A joint meeting of the Executive and Finance Committees of the Board of Trustees.

**Contact:** Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-5110/TTY , e-mail laura.bailey@jyf.virginia.gov.

## BOARD OF JUVENILE JUSTICE

**November 9, 2005 - 10 a.m.** -- Public Hearing

Department of Juvenile Justice, 700 East Franklin Street, 4th Floor, Richmond, Virginia.

**November 25, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Juvenile Justice intends to amend regulations entitled **6 VAC 35-10, Public Participation Guidelines**. The purpose of the proposed action is to update the regulation to reflect technological and statutory changes since the original regulation was adopted in 1991.

Statutory Authority: §§ 2.2-4007 and 66-3 of the Code of Virginia.

Public comments may be submitted until November 25, 2005, to Patricia Rollston, P.O. Box 1110, Richmond, VA 23219-1110.

**Contact:** Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23219-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail don.carignan@djj.virginia.gov.

## DEPARTMENT OF LABOR AND INDUSTRY


### Virginia Apprenticeship Council

NOTE: CHANGE IN MEETING DATE


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# Calendar of Events


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† **September 14, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business.

**Contact:** Beverley Donati, Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail [bgd@doli.state.va.us](mailto:bgd@doli.state.va.us).


## STATE LAND EVALUATION ADVISORY COUNCIL

**August 2, 2005 - 11 a.m.** -- Open Meeting  
**September 13, 2005 - 11 a.m.** -- Open Meeting  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. 

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

**Contact:** H. Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020, FAX (804) 367-8662, e-mail [keith.mawyer@tax.virginia.gov](mailto:keith.mawyer@tax.virginia.gov).

## STATE LIBRARY BOARD


**September 19, 2005 - 8:15 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room  
Publications and Educational Services Committee, Conference Room B  
Records Management Committee, Conference Room C

9:30 a.m. - Archival and Information Services Committee, Orientation Room  
Collection Management Services Committee, Conference Room B  
Legislative and Finance Committee, Conference Room C

10:30 a.m. - Library Board, Conference Room, 2M

**Contact:** Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail [jtaylor@lva.lib.va.us](mailto:jtaylor@lva.lib.va.us).

## COMMISSION ON LOCAL GOVERNMENT

**August 1, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Commission on Local Government intends to amend regulations entitled **1 VAC 50-10, Public**

**Participation Guidelines.** The purpose of the proposed action is to update the public participation guidelines. The commission's current guidelines were adopted in 1984 and have not been amended since that date.

Statutory Authority: § 15.2-2903 of the Code of Virginia.

**Contact:** Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 786-6508, FAX (804) 371-7090, email [ted.mccormack@dhcd.virginia.gov](mailto:ted.mccormack@dhcd.virginia.gov).

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**August 1, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Commission on Local Government intends to amend regulations entitled **1 VAC 50-20, Organization and Regulations of Procedure**. The purpose of the proposed action is to update the regulations that are used by the commission in the review of boundary change and governmental transition issues and in the conduct of its meetings and oral presentations and public hearings. The commission's current regulations were adopted in 1984.


Statutory Authority: § 15.2-2903 of the Code of Virginia.

**Contact:** Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 786-6508, FAX (804) 371-7090, email [ted.cccormack@dhcd.virginia.gov](mailto:ted.cccormack@dhcd.virginia.gov).


## MARINE RESOURCES COMMISSION

**July 26, 2005 - 9:30 a.m.** -- Open Meeting  
**August 23, 2005 - 9:30 a.m.** -- Open Meeting  
**September 27, 2005 9:30 a.m.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)


A monthly commission meeting.

**Contact:** Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail [jane.mccroskey@mrc.virginia.gov](mailto:jane.mccroskey@mrc.virginia.gov).

## BOARD OF MEDICAL ASSISTANCE SERVICES

**September 13, 2005 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Conference Room, Richmond, Virginia. 

A quarterly meeting.

**Contact:** Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail [nancy.malczewski@dmas.virginia.gov](mailto:nancy.malczewski@dmas.virginia.gov).



## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-50, Amount, Duration and Scope of Medical and Remedial Care Services; 12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care; and 12 VAC 30-130, Amount, Duration and Scope of Selected Services.** The purpose of the proposed action is to implement coverage of new levels of community-based residential mental health services for children and adolescents.

Statutory Authority: § 32.1-325 of the Code of Virginia.

**Contact:** Renee Slade White, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail renee.white@dmas.virginia.gov.

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**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care.** The purpose of the proposed action is to change DMAS requirements for physician certification and recertification of home health patient care, to conform to federal Medicare law and regulation for home health services in order to reduce confusion and errors by home health agencies.


Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

**Contact:** Diane Thorpe, Long-Term Care and Quality Assurance Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail diane.thorpe@dmas.virginia.gov.

**August 11, 2005 - 2 p.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. 


A meeting of the Drug Utilization Review Board to discuss issues and concerns about Medicaid pharmacy issues with the committee and the community.

**Contact:** Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799, (800) 343-0634/TTY , e-mail rachel.cain@dmas.virginia.gov.

**September 21, 2005 - 1 p.m.** -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Boardroom, Richmond, Virginia.

A meeting of the Medicaid Transportation Advisory Committee to discuss issues and concerns about Medicaid transportation issues with the committee and the community.

**Contact:** Bob Knox, Transportation Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-5799, (800) 343-0634/TTY , e-mail bob.knox@dmas.virginia.gov.

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† **September 23, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-80, Methods and Standards for Establishing Payment Rates: Other Types of Care.** The purpose of the proposed action is to establish a new payment methodology for generic drugs and brand-name drugs that are priced as generics that is based on Wholesale Average Cost (WAC). This methodology will permit the weekly review of marketplace prices for drugs and revisions of DMAS' prices.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

**Contact:** Katina Goodwyn, Pharmacy Contract Manager, Division of Healthcare Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-1680 or e-mail katina.goodwyn@dmas.virginia.gov.

## BOARD OF MEDICINE

**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic.** The purpose of the proposed action is to clarify that the intent of regulations for performance of office-based anesthesia was to address the administration of anesthesia in an office-based setting by an amendment stating that performance of a major conductive block for diagnostic or therapeutic purposes does not require the services of an anesthesiologist or certified registered nurse anesthetist, but could be administered by a qualified physician.

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

Public comments may be submitted until July 29, 2005, to William L. Harp, M.D., Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

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# Calendar of Events

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**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

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**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners**. The purpose of the proposed action is to recognize courses directly related to the practice of respiratory care that are approved by the American Medical Association for Category 1 CME credit.

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

Public comments may be submitted until July 29, 2005, to William L. Harp, M.D., Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

† **August 10, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

**August 16, 2005 - 9 a.m.** -- Open Meeting

† **September 13, 2005 - 9 a.m.** -- Open Meeting  
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. (Interpreter for the deaf provided upon request)

**August 24, 2005 - 9 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

A Special Conference Committee will convene an informal conference to inquire into allegations that certain practitioners of medicine or the other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed session pursuant to the Code of Virginia. Public comment will not be received.

**Contact:** Renee S. Dixon, Discipline Case Manager, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail [renee.dixon@dhp.virginia.gov](mailto:renee.dixon@dhp.virginia.gov).

**August 19, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Legislative Committee to consider regulatory matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

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**September 9, 2005** - Public comments may be received until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic**. The purpose of the proposed action is to incorporate the requirement for the practitioner to report any final disciplinary action taken by institutions or entities, which results in suspension or revocation of privileges or termination of employment. The requirement for reporting is currently stated in § 54.1-2910.1 (10) of the Code of Virginia, but its addition to regulation will ensure that practitioners are obligated to report within 30 days.

Statutory Authority: §§ 54.1-2400 and 54.1-2910.1 of the Code of Virginia.

Public comments may be submitted until September 9, 2005, to William L. Harp, M.D., Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

**September 16, 2005 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Executive Committee to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Acupuncture

**August 3, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of acupuncture. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Athletic Training

**August 4, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of athletic training. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Occupational Therapy

**August 2, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of occupational therapy. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Physician Assistants

**August 4, 2005 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of physician assistants. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Radiologic Technology

NOTE: CHANGE IN MEETING DATE  
**July 27, 2005 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 3, Richmond, Virginia.

A meeting to consider issues related to the regulation of radiologic technologists and radiologic technologist-limited. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## Advisory Board on Respiratory Care

**August 2, 2005 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of respiratory care. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**August 10, 2005 - 10 a.m.** -- Public Hearing  
Jefferson Building, 1220 Bank Street, 8th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Virginia Community Mental Health Services Performance Partnership Block Grant Application for Federal FY 2006. Copies of the application are available for review at the Office of Mental Health Services, 10th Floor, Jefferson Building, and at each community services board office. Comments may be made at the hearing or in writing no later than August 10, 2005, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing should contact William T. Ferriss, LCSW. Copies of oral presentations should be filed at the time of the hearing.

**Contact:** William T. Ferriss, LCSW, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-4837, FAX (804) 371-0091, (804) 371-8977/TTY ☎

## STATE MILK COMMISSION

**August 17, 2005 - 10:45 a.m.** -- Open Meeting  
Department of Forestry, 900 Natural Resources Drive, Room 2054, Charlottesville, Virginia ☎

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Washington Bldg., 1100 Bank St., Suite 1019, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, e-mail [edward.wilson@vdacs.virginia.gov](mailto:edward.wilson@vdacs.virginia.gov).

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# Calendar of Events

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## BOARD OF NURSING

**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled **18 VAC 90-25, Regulations Governing Certified Nurse Aides**. The purpose of the proposed action is to increase the biennial renewal fee for certified nurse aides from \$45 to \$50.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Jay Douglas, R.N., Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

**August 2, 2005 - 9 a.m.** -- Open Meeting

**August 9, 2005 - 9 a.m.** -- Open Meeting

**August 16, 2005 - 9 a.m.** -- Open Meeting

**August 23, 2005 - 9 a.m.** -- Open Meeting

**August 25, 2005 - 9 a.m.** -- Open Meeting

**August 30, 2005 - 9 a.m.** -- Open Meeting

**October 4, 2005 - 9 a.m.** -- Open Meeting

**October 11, 2005 - 9 a.m.** -- Open Meeting

**† October 17, 2005 - 9 a.m.** -- Open Meeting


**† October 18, 2005 - 9 a.m.** -- Open Meeting

**† October 20, 2005 - 9 a.m.** -- Open Meeting

**† October 25, 2005 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail [nursebd@dhp.virginia.gov](mailto:nursebd@dhp.virginia.gov).


**September 19, 2005 - 9 a.m.** -- Open Meeting


**September 21, 2005 - 9 a.m.** -- Open Meeting

**September 22, 2005 - 9 a.m.** -- Open Meeting


Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail [nursebd@dhp.virginia.gov](mailto:nursebd@dhp.virginia.gov).

**September 20, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 


A general business meeting including committee reports, consideration of regulatory action and discipline case decisions as presented on the agenda. Public comment will be received at 11 a.m.

**Contact:** Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).


## JOINT BOARDS OF NURSING AND MEDICINE

**August 24, 2005 - 9 a.m.** -- Open Meeting

**† October 19, 2005 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 

A meeting of the Joint Boards of Nursing and Medicine.

**Contact:** Jay P. Douglas, RN, MSM, CSAC, Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail [nursebd@dhp.virginia.gov](mailto:nursebd@dhp.virginia.gov).


## BOARD OF NURSING HOME ADMINISTRATORS

**July 27, 2005 - 9 a.m.** -- Open Meeting

**† October 12, 2005 - 9:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss general board business. There will be a public comment period during the first 15 minutes of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Nursing Home Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

## OLMSTEAD OVERSIGHT ADVISORY COMMITTEE

**July 26, 2005 - 11 a.m.** -- Open Meeting

Virginia Housing Development Authority, 621 South Belvidere Street, Richmond, Virginia.

A joint meeting between the Implementation Team and the Oversight Advisory Committee.

**Contact:** Kathie Shifflett, Administrative Assistant, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 622-7069, FAX (804) 662-7663, e-mail [kathie.shifflett@drs.virginia.gov](mailto:kathie.shifflett@drs.virginia.gov).

**August 11, 2005 - 11 a.m.** -- Open Meeting

**† October 13, 2005 - 11 a.m.** -- Open Meeting

Virginia Housing Development Authority, 621 South Belvidere Street, Richmond, Virginia.

† **August 23, 2005 - 1 p.m.** -- Open Meeting  
Wythe Building, 1604 Santa Rosa Rd, Richmond, Virginia.

**September 13, 2005 - 11 a.m.** -- Open Meeting  
**September 14, 2005 - 9 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A regular meeting.

**Contact:** Kathie Shifflett, Administrative Assistant, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 622-7069, FAX (804) 662-7663, e-mail [kathie.shifflett@drs.virginia.gov](mailto:kathie.shifflett@drs.virginia.gov).

## BOARD OF OPTOMETRY

**July 29, 2005** - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled **18 VAC 105-20, Regulations Governing the Practice of Optometry** and repeal regulations entitled **18 VAC 105-30, Regulations for Certification for Therapeutic Pharmaceutical Agents**. The purpose of the proposed action is to incorporate the current requirements for certification in therapeutic pharmaceutical agents into regulations governing the practice of optometry.

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.


Public comments may be submitted until July 29, 2005, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6603 West Broad Street, Richmond, VA 23230-1712.


**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

## VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES


**August 31, 2005 - 10 a.m.** -- Open Meeting  
202 North 9th Street, Richmond, Virginia. 

A meeting of the Executive Committee.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail [sandra.smalls@vbpd.virginia.gov](mailto:sandra.smalls@vbpd.virginia.gov).

**September 1, 2005 - 9 a.m.** -- Open Meeting  
Holiday Inn, 6531 West Broad Street, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A quarterly board meeting.

**Contact:** Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail [sandra.smalls@vbpd.virginia.gov](mailto:sandra.smalls@vbpd.virginia.gov).

## BOARD OF PHARMACY

**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action is to limit the time for dispensing or refilling of Schedule VI drugs to one year from date of issuance unless the prescriber specifies a longer period, not to exceed two years.

Statutory Authority: § 54.1-2400 and Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until July 29, 2005, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

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**August 12, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled **18 VAC 110-30, Regulations for Practitioners of the Healing Arts to Sell Controlled Substances**. The purpose of the proposed action is to eliminate unnecessary requirements for equipment and security, allow electronic transmission and storage of records, amend a burdensome reinstatement requirement and clarify rules for repackaging and storage. In addition, regulations are updated for consistency with Code changes requiring registration and training of pharmacy technicians and counseling of patients.

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


Public comments may be submitted until August 12, 2005, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).


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# Calendar of Events

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**September 13, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. 


A meeting to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail [scotti.russell@dhp.virginia.gov](mailto:scotti.russell@dhp.virginia.gov).


## BOARD OF PHYSICAL THERAPY

**August 19, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 


A regular business meeting.

**Contact:** Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.virginia.gov](mailto:elizabeth.young@dhp.virginia.gov).


## POLYGRAPH EXAMINERS ADVISORY BOARD

**September 1, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business. The meeting is open to the public; however a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail [kevin.hoeft@dpor.virginia.gov](mailto:kevin.hoeft@dpor.virginia.gov).

## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**September 19, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 


A quarterly board meeting.

**Contact:** Judith A. Spiller, Executive Secretary, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519, FAX (804) 367-9537, (804) 367-9753/TTY , e-mail [judy.spiller@dpor.virginia.gov](mailto:judy.spiller@dpor.virginia.gov).

## BOARD OF PSYCHOLOGY


**August 23, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 

A formal hearing.


**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

**October 11, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 


A business meeting to include reports from standing committees and any regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

## VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

**September 29, 2005 - 10 a.m.** -- Open Meeting  
Department for the Aging, 1610 Forest Avenue, Suite 100,  
Richmond, Virginia. 

An advisory board meeting.

**Contact:** Janet Dingle Brown, Esq, Public Guardianship Coordinator and Legal Services Developer, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail [janet.brown@vda.virginia.gov](mailto:janet.brown@vda.virginia.gov).

## VIRGINIA RACING COMMISSION


**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Racing Commission intends to amend regulations entitled **11 VAC 10-20, Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering**. The purpose of the proposed action is to specify certain procedures for the transfer or acquisition of an interest in an existing owner's, owner-operator's, or operator's license.


Statutory Authority: § 59.1-369 of the Code of Virginia.


**Contact:** David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail [david.lermond@vrc.virginia.gov](mailto:david.lermond@vrc.virginia.gov).

## REAL ESTATE APPRAISER BOARD


**August 23, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4 West Conference Room,  
Richmond, Virginia. 

A meeting to discuss board business.


**Contact:** Karen W. O'Neal, Regulatory Programs  
Coordinator, Department of Professional and Occupational  
Regulation, 3600 W. Broad St., Richmond, VA 23230,  
telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-  
9753/TTY , e-mail karen.oneal@dpor.virginia.gov.

**† September 14, 2005 - 11 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. 


Informal fact-finding conferences.


**Contact:** Christine Martine, Executive Director, Real Estate  
Appraiser Board, 3600 W. Broad St., Richmond, VA 23230,  
telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-  
9753/TTY , e-mail reappraisers@dpor.virginia.gov.

## REAL ESTATE BOARD


**July 27, 2005 - 9 a.m.** -- Open Meeting  
**July 28, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. 

An informal fact-finding conference.

**Contact:** Christine Martine, Executive Director, Real Estate  
Board, 3600 W. Broad St., Richmond, VA 23230, telephone  
(804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ,  
e-mail reboard@dpor.virginia.gov.

**September 15, 2005 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4 West Conference Room,  
Richmond, Virginia.23230. 

A meeting to discuss any and all board business.

**Contact:** Christine Martine, Executive Director, Real Estate  
Board, 3600 W. Broad Street, Richmond, VA 23230,  
telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-  
9753/TTY , e-mail reboard@dpor.virginia.gov.

## VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

**September 20, 2005 - 11 a.m.** -- Open Meeting  
Greater Richmond Convention Center, 403 North 3rd Street,  
Richmond, Virginia.

E-mail Nancy Vorona for information and to participate in  
the meeting.

**Contact:** Nancy Vorona, VP Research Investment, CIT,  
Virginia Research and Technology Advisory Commission,


2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone  
(703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

**November 15, 2005 - 1 p.m.** -- Open Meeting  
NASA Langley Research Center/National Institute of  
Aerospace, Hampton, Virginia.

Tour at 10 a.m. Meeting will follow at 1 p.m. Lunch will be  
provided.

**Contact:** Nancy Vorona, VP Research Investment, CIT,  
Virginia Research and Technology Advisory Commission,  
2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone  
(703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.


## VIRGINIA RESOURCES AUTHORITY

**August 9, 2005 - 9 a.m.** -- Open Meeting  
Eighth and Main Building, 707 East Main Street, 2nd Floor,  
Richmond, Virginia. 

A regular meeting of the Board of Directors to (i) review  
and, if appropriate, approve the minutes from the most  
recent monthly meeting; (ii) review the authority's  
operations for the prior month; (iii) review applications for  
loans submitted to the authority for approval; (iv) consider  
loan commitments for approval and ratification under its  
various programs; (v) approve the issuance of any bonds;  
(vi) review the results of any bond sales; and (vii) consider  
such other matters and take such other actions as it may  
deem appropriate. Various committees of the Board of  
Directors may also meet immediately before or after the  
regular meeting and consider matters within their purview.  
The planned agenda of the meeting and any committee  
meetings will be available at the offices of the authority one  
week prior to the date of the meeting. Any person who  
needs any accommodation in order to participate in the  
meeting should contact the authority at least 10 days before  
the meeting so that suitable arrangements can be made.

**Contact:** Bonnie R. C. McRae, Executive Assistant, Virginia  
Resources Authority, 707 E. Main St., Richmond, VA 23219,  
telephone (804) 644-3100, FAX (804) 644-3109, e-mail  
bmcrac@vra.state.va.us.

## SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

**August 10, 2005 - 10 a.m.** -- Open Meeting  
**September 14, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate  
Room B, Richmond, Virginia. 

**† October 19, 2005 - 10 a.m.** -- Open Meeting  
Dixon Powers Drive, 2nd Floor Environmental Health  
Conference, Richmond, Virginia. 

A meeting to hear appeals of health department denials of  
septic tank permits.


**Contact:** Susan Sherertz, Secretary to the Board,  
Department of Health, 109 Governor St., 5th Floor, Richmond,  
VA 23219, telephone (804) 864-7464, FAX (804) 864-7475,  
e-mail susan.sherertz@vdh.virginia.gov.

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# Calendar of Events

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## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**August 17, 2005 - Noon** -- Open Meeting  
Department of Business Assistance, 707 East Main Street,  
3rd Floor Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and general business of the board. Time is subject to change depending upon the board's agenda.

**Contact:** Scott E. Parsons, Executive Director, Virginia Small Business Financing Authority, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, toll-free (866) 248-8814, e-mail scott.parsons@dba.virginia.gov.

## STATE BOARD OF SOCIAL SERVICES


**July 29, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-901, Community Services Block Grant Program**. The purpose of the proposed action is to establish criteria for the expansion of existing community action agencies and the designation of new community action agencies.


Statutory Authority: §§ 2.2-5402 and 63.2-217 of the Code of Virginia.

**Contact:** J. Mark Grigsby, Director, Office of Community Services, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7922, FAX (804) 726-7946 or e-mail james.grigsby@dss.virginia.gov.


NOTE: CHANGE IN MEETING DATE

**August 12, 2005 - 9 a.m.** -- Open Meeting  
Department of Social Services, 7 North 8th Street, 6th Floor, Conference Room, Richmond, Virginia. 


New member orientation.

**Contact:** Pat Rengnerth, State Board Liaison, State Board of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , e-mail patricia.rengnerth@dss.virginia.gov.

**August 17, 2005 - 9 a.m.** -- Open Meeting

**August 18, 2005 - 9 a.m.** -- Open Meeting  
Department of Social Services, 1701 High Street, Portsmouth, Virginia. 

A regular meeting. Public comment will be received at 1:30 p.m.

**Contact:** Pat Rengnerth, State Board Liaison, State Board of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , e-mail patricia.rengnerth@dss.virginia.gov.

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**August 26, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-740, Adult Protective Services**. The purpose of the proposed action is to provide guidelines to local departments of social services for investigating reports and protecting the health, safety, and welfare of the elderly and adults who are incapacitated and to maximize statewide consistency in the implementation of the adult protective services program following comprehensive APS legislation in the 2004 General Assembly.

Statutory Authority: § 63.2-217 and Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of Title 54.1 of the Code of Virginia.

**Contact:** Sue Murdock, Adult Services Program Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7616, FAX (804) 726-7895 or e-mail susan.murdock@dss.virginia.gov.

## DEPARTMENT OF SOCIAL SERVICES

† **July 26, 2005 - 7 p.m.** -- Public Hearing  
General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia. 


A public hearing to address the Child Support Quadrennial Guideline Review Panel on its deliberations. Any individual who wishes to speak must register on arrival and speakers will be called in the order of registration. Depending on the number of individuals registered, maximum speaking times may be set in order for all who wish to speak to do so.


**Contact:** Tara Outridge, Operations Support Coordinator, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7431, e-mail tara.outridge@dss.virginia.gov.

## BOARD OF SOCIAL WORK

† **August 24, 2005 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of social work.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

**September 16, 2005 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting to conduct regular board business.



**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

† **October 12, 2005 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [soilscientist@dpor.virginia.gov](mailto:soilscientist@dpor.virginia.gov).

## COUNCIL ON TECHNOLOGY SERVICES

**August 25, 2005 - 2 p.m.** -- Open Meeting  
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ♿

A regular meeting of the advisory council to the chief information officer of the Commonwealth on matters related to information technology in the Commonwealth.

**Contact:** Jennifer W. Hunter, Special Assistant for Communications/COTS Executive Director, Council on Technology Services, 411 E. Franklin St., Suite 500, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9015, e-mail [jenny.hunter@vita.virginia.gov](mailto:jenny.hunter@vita.virginia.gov).

## VIRGINIA TOURISM AUTHORITY

† **August 9, 2005 - 2 p.m.** -- Open Meeting  
Berry Hill Plantation Resort, South Boston, Virginia. ♿

A meeting to discuss board strategies and tactics.

**Contact:** Winston Evans, Executive Assistant, Virginia Tourism Authority, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 371-8174, FAX (804) 786-1919, (804) 371-0327/TTY ☎, e-mail [wevans@virginia.org](mailto:wevans@virginia.org).

## COMMONWEALTH TRANSPORTATION BOARD

**July 26, 2005 - 7 p.m.** -- Open Meeting  
Arlington County Board Meeting Room, 2100 Clarendon Boulevard, Arlington, Virginia. ♿

The second meeting of the I-95/395 PPTA Advisory Panel to consider two proposals for improvements to the I-95/395 corridor. Public comment will not be received at this meeting. Public comments are planned to be received at the September 21, 2005, meeting. Proceedings will be televised over the county's cable network.

**Contact:** Robert L. Trachy, Jr., Project Manager, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, FAX (804) 225-4700, e-mail [larry.trachy@vdot.virginia.gov](mailto:larry.trachy@vdot.virginia.gov).

NOTE: CHANGE IN MEETING DATE

**September 21, 2005 - 7 p.m.** -- Open Meeting  
McCoart Administrative Building, 1 County Complex, Prince William County Board of Supervisors Meeting Room, Prince William, Virginia. ♿

The third meeting of the I-95/395 PPTA Advisory Panel to consider two proposals for improvements to the I-95/395 corridor. Proceedings will be televised over the county's cable network. Public comments will be received.

**Contact:** Robert L. Trachy, Jr., Project Manager, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, e-mail [larry.trachy@vdot.virginia.gov](mailto:larry.trachy@vdot.virginia.gov).

**October 11, 2005 - 7 p.m.** -- Open Meeting  
1200 Government Center Parkway, Fairfax County Board of Supervisors Meeting Room, Fairfax, Virginia. ♿

The final meeting of the I-95/395 PPTA Advisory Panel to consider two proposals for improvements to the I-95/395 corridor. Public comment will not be received. Proceedings will be televised over the county's cable network.

**Contact:** Robert L. Trachy, Jr., Project Manager, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4263, FAX (804) 225-4700, or e-mail [larry.trachy@vdot.virginia.gov](mailto:larry.trachy@vdot.virginia.gov).

## BOARD OF VETERINARY MEDICINE

**July 27, 2005 - 9 a.m.** -- Open Meeting  
Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia. ♿

A quorum of the board will conduct a formal hearing. Public comment will not be received.

**Contact:** Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail [terri.behr@dhp.virginia.gov](mailto:terri.behr@dhp.virginia.gov).

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† **August 10, 2005 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ♿

† **September 23, 2005** - Public comments may be submitted until this date.

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# Calendar of Events

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Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled **18 VAC 150-20, Regulations Governing the Practice of Veterinary Medicine**. The purpose of the proposed action is to require a notice on a rabies certificate stating the 28-day waiting period for effectiveness.

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

Public comments may be submitted until September 23, 2005, to Elizabeth Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6603 West Broad Street, Richmond, VA 23230-1712.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

**August 11, 2005 - 10:30 a.m.** -- Public Hearing  
Department of Profession and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 West, Richmond, Virginia.


**August 26, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Waste Management Facility Operators intends to amend regulations entitled **18 VAC 155-20, Waste Management Facility Operators Regulations**. The purpose of the proposed action is to (i) create a new license classification (Class V) for Municipal Solid Waste (MSW) composting facilities and move MSW composting from Class II to the new Class V; (ii) clarify that a waste management facility for which the board has not established training and licensure requirements may be operated by a Class I licensee; (iii) require applicants using experience to substitute for a high school diploma to have obtained that experience during the seven years immediately preceding the date of application; (iv) require applicants to document at least one year of experience with a waste management facility in order to qualify for licensure; (v) repeal language requiring facility specific training to have been completed after January 1, 1989, and language concerning the first renewal after May 1, 2000, which assigned a single expiration date to all classes of license held by a single individual; (vi) require license renewal applicants to state that they are in compliance with all Virginia and federal laws and regulations; (vii) amend the training course curriculum section to be more reflective of current technology and training needs, to amend Class II training to remove MSW composting requirements, and to create a new curriculum for Class V MSW composting; and (viii) make renewing a license through fraudulent means or misrepresentation a ground for license denial and disciplinary action and to cite the provisions of § 54.1-204 of the Code of Virginia pertinent to applicants with criminal convictions.

Statutory Authority: § 54.1-2211 of the Code of Virginia.


**Contact:** David Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0219, FAX (804) 367-6128 or e-mail [wastemtg@dpor.virginia.gov](mailto:wastemtg@dpor.virginia.gov).

## STATE WATER CONTROL BOARD

**July 25, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 


A meeting of the advisory committee assisting in the development of a general VPDES permit for total nitrogen and total phosphorus discharges and nutrient trading in the Chesapeake Bay. The Notice of Intent was published in the Virginia Register of Regulations on May 2, 2005. The deadline for comments on the Notice of Intent and to volunteer to serve on the Advisory Committee was June 1, 2005.

**Contact:** Allan Brockenbrough, State Water Control Board, P.O. Box 10009 Richmond, VA 23240, telephone (804) 698-4147, e-mail [abrockenbrough@deq.virginia.gov](mailto:abrockenbrough@deq.virginia.gov).

**August 9, 2005 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee assisting in the development of amendments to the water quality standards to establish nutrient criteria for lakes. Meeting date is tentative and interested persons should confirm the meeting with the contact person.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, e-mail [emdaub@deq.virginia.gov](mailto:emdaub@deq.virginia.gov).

**August 25, 2005 - 9:30 a.m.** -- Open Meeting  
**September 16, 2005 - 9:30 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee assisting in the development of amendments to the Virginia Water Protection Permit Regulation.

**Contact:** William K. Norris, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4022, FAX (804) 698-4224, e-mail [wknorris@deq.virginia.gov](mailto:wknorris@deq.virginia.gov).

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† **August 30, 2005 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

† **September 23, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends

to amend regulations entitled **9 VAC 25-115, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities**. The purpose of the proposed action is to reissue and amend, as necessary, the general VPDES permit which establishes limitations and monitoring requirements for point source discharges from seafood processing facilities.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

**Contact:** Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail mbgregory@deq.virginia.gov.

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† **August 30, 2005 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

† **September 23, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled **9 VAC 25-193, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Ready-Mixed Concrete Plants**. The purpose of the proposed action is to amend the existing general VPDES permit to include appropriate and necessary permitting requirements for discharges of wastewater from concrete product facilities.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

**Contact:** Burton Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032 or e-mail brtuxford@deq.virginia.gov.

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**August 30, 2005 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

† **September 23, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled **9 VAC 25-810, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry**. The purpose of the proposed action is to establish appropriate and necessary permitting requirements for discharges of wastewater from coin-operated laundries.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

**Contact:** George E. Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032 or e-mail gec Cosby@deq.virginia.gov.

**BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS**

**August 11, 2005 - 9 a.m.** -- Public Hearing  
Department of Profession and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 West, Richmond, Virginia.

**August 26, 2005** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled **18 VAC 160-20, Board for Waterworks and Wastewater Works Operators**. The purpose of the proposed action is to allow applicants that meet all of the board's license qualification requirements except for experience at a classified facility to sit for the board's examination. Those so qualified who do pass the examination will be issued a conditional license. A full license will be issued upon receipt of documentation of half of the classified facility experience from a conditional license holder. The public health, safety and welfare will benefit from a larger pool of qualified individuals that can more quickly become licensed to operate a classified facility and from the operation of nonclassified facilities by those who have met the standards set by the board's regulations. The goal is to allow individuals who are technically qualified but who have not obtained experience at a classified facility operated under the oversight of the Virginia Department of Health or the Virginia Department of Environmental Quality to sit for the board's examination. The board expects a disproportionately large number of operator retirements in the coming years and feels that this amendment will create a pool of qualified individuals that can become licensed after a relatively short period of employment at a classified facility. Costs to the facilities (many of which are publicly owned and funded) to recruit replacements should be reduced as a result.

Conditional licensees operating nonclassified facilities would be under the disciplinary authority of the board. The board can take action against a conditional license holder should his operation cause an adverse affect to the consuming public or to the classified facilities receiving his treated waste.

Statutory Authority: § 54.1-2301 of the Code of Virginia.

**Contact:** David Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0219, FAX (804) 367-6128 or e-mail wastemtg@dpor.virginia.gov.

**September 14, 2005 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that

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# Calendar of Events

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suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail [waterwasteoper@dpor.virginia.gov](mailto:waterwasteoper@dpor.virginia.gov).

## INDEPENDENT

### VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

#### Board for Protection and Advocacy

**September 20, 2005 - 9 a.m.** -- Open Meeting  
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Public comment is welcomed and will be accepted at the start of the meeting. If you wish to provide public comment via telephone, or if interpreter services or other accommodations are required, please contact Lisa Shehi no later than Tuesday, July 5, 2005.

**Contact:** Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail [lisa.shehi@vopa.virginia.gov](mailto:lisa.shehi@vopa.virginia.gov).

#### Disabilities Advisory Council

NOTE: CHANGE IN MEETING DATE

**July 27, 2005 - 10 a.m.** -- Open Meeting  
Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Delicia (Dee) Vance by July 14, 2005.

**Contact:** Delicia Vance, Outreach Advocate, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 662-7099, FAX (804) 662-7057, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail [delicia.vance@vopa.virginia.gov](mailto:delicia.vance@vopa.virginia.gov).

#### PAIMI Advisory Council

**August 11, 2005 - 10 a.m.** -- Open Meeting  
Location to be announced.

Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Delicia (Dee) Vance by July 29, 2005.

**Contact:** Delicia Vance, Outreach Advocate, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 662-7099, FAX (804) 662-7057, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail [delicia.vance@vopa.virginia.gov](mailto:delicia.vance@vopa.virginia.gov).

### VIRGINIA RETIREMENT SYSTEM

**August 16, 2005 - Noon** -- Open Meeting  
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**August 17, 2005 - 2:30 p.m.** -- Open Meeting  
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

Meetings of the following committees:

11 a.m. - Investment Advisory - CANCELED  
2:30 p.m. - Benefits and Actuarial - CANCELED  
4 p.m. - Audit and Compliance  
4 p.m. - Administration and Personnel

No public comment will be received.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**August 18, 2005 - 8:30 a.m.** -- Open Meeting  
**† October 12, 2005 - 9 a.m.** -- Open Meeting  
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.


**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

NOTE: CHANGE IN MEETING DATE AND TIME


**August 18, 2005 - 8:30 a.m.** -- Open Meeting  
Location to be determined. ♿

The Board of Trustees annual retreat. Details will be posted at a later date.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).


† **October 12, 2005 - 10 a.m.** -- Open Meeting  
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Benefits and Actuarial Committee.  
No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , or e-mail lking@vrs.state.va.us.

## LEGISLATIVE


### JOINT COMMISSION ON ADMINISTRATIVE RULES

**August 10, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Elizabeth Palen, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218 at least seven days prior to the meeting.

**Contact:** Nathan Hatfield, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.


### JOINT SUBCOMMITTEE ON ADOPTION LAWS AND POLICIES

† **August 10, 2005 - 1 p.m.** -- Open Meeting  
† **September 12, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Jeff Gore or Jescey French, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.


### VIRGINIA CODE COMMISSION

**July 27, 2005 - 10 a.m.** -- Open Meeting  
**August 17, 2005 - 10 a.m.** -- Open Meeting  
**September 21, 2005 - 10 a.m.** -- Open Meeting  
**October 19, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. 

A meeting to continue work on the 2007 Code of Virginia project and the Title 3.1 recodification.

**Contact:** Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.


### VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

**August 31, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

An agenda for the meeting will be posted as soon as it is available.

**Contact:** Maria Everett, Executive Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 255-3056, FAX (804) 371-0169, toll-free (866) 448-4100.

### JOINT SUBCOMMITTEE STUDYING PUBLIC FUNDING OF HIGHER EDUCATION IN VIRGINIA

**July 25, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A regular meeting. Should you have any questions regarding the meeting agenda, please contact Amy Sebring, Senate Finance Committee Staff (804) 698-7480 or Tony Maggio, House Appropriations Committee Staff (804) 698-1590.

**Contact:** Amy Sebring, Senate Finance Committee Staff, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 698-7480 or Tony Maggio, House Appropriations Committee Staff, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 698-1590.

### HOUSE AND SENATE FINANCE COMMITTEES

**August 29, 2005 - Noon** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A meeting of the House and Senate Subcommittees on Land Conservation Tax Credit. A public hearing will begin at 12:45 p.m. Any questions about the agenda for the meeting or the public hearing should be addressed to Joan Putney or David Rosenberg in the Division of Legislative

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## Calendar of Events

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Services, (804) 786-3591. If you are unable to attend this meeting or if our office may be of assistance, please call (804) 698-1540.

**Contact:** Joan Putney or David Rosenberg, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.


### COMMONWEALTH'S PROGRAM FOR PRISONER REENTRY TO SOCIETY

† **July 27, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Jeff Gore or Amy Marschean, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

**Contact:** Nathan Hatfield, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.


### JOINT SUBCOMMITTEE STUDYING THE PUBLIC RECORDS ACT

**July 29, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Lisa Wallmeyer, Division of Legislative Services, (804) 786-3591.

**Contact:** Lori Maynard, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.


### JOINT SUBCOMMITTEE STUDYING MEDICAL, ETHICAL, AND SCIENTIFIC ISSUES RELATING TO STEM CELL RESEARCH

**August 17, 2005 - 10 a.m.** -- Open Meeting  
**September 21, 2005 - 10 a.m.** -- Open Meeting  
**November 15, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Norma Szakal or Amy Marschean, Division of Legislative Services, (804) 786-3591.


**Contact:** Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

### JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

**August 2, 2005 - 2 pm.** -- Open Meeting  
**October 11, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 


A meeting of the JCOTS Integrated Government Advisory Committee.

**Contact:** Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail [lwallmeyer@leg.state.va.us](mailto:lwallmeyer@leg.state.va.us).

**August 3, 2005 - 10 a.m.** -- Open Meeting  
† **October 12, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 


A meeting of the JCOTS Privacy Advisory Committee.

**Contact:** Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail [lwallmeyer@leg.state.va.us](mailto:lwallmeyer@leg.state.va.us).

**September 12, 2005 - 10 a.m.** -- Open Meeting  
† **October 18, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Emerging Technology Issues Advisory Committee.


**Contact:** Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail [lwallmeyer@leg.state.va.us](mailto:lwallmeyer@leg.state.va.us).

**September 14, 2005 - 2 p.m.** -- Open Meeting  
† **October 19, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Nanotechnology Advisory Committee.

**Contact:** Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail [lwallmeyer@leg.state.va.us](mailto:lwallmeyer@leg.state.va.us).

### JOINT SUBCOMMITTEE PLANNING AND COORDINATING THE 200TH ANNIVERSARY CELEBRATION OF THE BIRTH OF ROBERT E. LEE

**July 26, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. Any questions about the agenda for this meeting should be addressed to Robie Ingram or Lisa Wallmeyer in the Division of Legislative Services, (804) 786-

3591. If you are unable to attend this meeting or if our office can be of assistance, please call (804) 698-1540.

**Contact:** Robie Ingram or Lisa Wallmeyer, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**UNEMPLOYMENT COMPENSATION COMMISSION**

**July 27, 2005 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. Should you have any questions regarding the meeting agenda, please contact Frank Munyan with the Division of Legislative Services at (804) 786-3591. If you are unable to attend this meeting or have questions regarding scheduling, please call me at (804) 698-7410.

**Contact:** Frank Munyan, Division of Legislative Services, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**JOINT SUBCOMMITTEE STUDYING THE VOTING EQUIPMENT CERTIFICATION PROCESS**

NOTE: CHANGE IN MEETING TIME  
**August 22, 2005 - 12:30 p.m.** -- Open Meeting  
**November 21, 2005 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Mary Spain or Jack Austin, Division of Legislative Services, (804) 786-3591.

**Contact:** Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

**JOINT SUBCOMMITTEE STUDYING WORKFORCE DEVELOPMENT TRAINING RESOURCES**

† **August 30, 2005 - 10 a.m.** -- Open Meeting  
† **September 21, 2005 - 10 a.m.** -- Open Meeting  
† **November 15, 2005 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Terry Barnes-Pirko, Division of Legislative Services, (804) 786-3591.

**Contact:** Lois V. Johnson, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

**CHRONOLOGICAL LIST**

**OPEN MEETINGS**

- July 25**  
Chesapeake Bay Local Assistance Board  
Public Funding of Higher Education in Virginia, Joint Subcommittee Studying  
Water Control Board, State
- July 26**  
Accountancy, Board of  
† Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for  
Conservation and Recreation, Department of Contractors, Board for  
† Funeral Directors and Embalmers, Board of Housing and Community Development, Board of Marine Resources Commission  
Olmstead Oversight Advisory Committee  
† Social Services, Department of Transportation Board, Commonwealth  
200th Anniversary Celebration of the Birth of Robert E. Lee, Joint Subcommittee Planning and Coordinating
- July 27**  
Code Commission, Virginia  
† Competition Council, Commonwealth  
Economic Development Partnership, Virginia  
Education, Board of  
† Game and Inland Fisheries, Board of Geology, Board for  
† Health, Department of Housing Development Authority, Virginia  
Medicine, Board of  
- Advisory Board on Radiologic Technology  
Nursing Home Administrators, Board of  
† Prisoner Reentry to Society, Commonwealth's Program for Protection and Advocacy, Virginia Office for  
- Disabilities Advisory Council  
Real Estate Board  
Unemployment Compensation Commission  
Veterinary Medicine, Board of
- July 28**  
Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for  
Barbers and Cosmetology, Board for  
Contractors, Board for  
† Game and Inland Fisheries, Board of  
† Health, Department of Real Estate Board
- July 29**  
† Accountancy, Board of  
Branch Pilots, Board for  
Public Records Act, Joint Subcommittee Studying the
- August 1**  
Alcoholic Beverage Control Board

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# Calendar of Events

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**August 2**

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Jamestown-Yorktown Foundation  
Land Evaluation Advisory Council, State  
Medicine, Board of  
- Advisory Board on Occupational Therapy  
- Advisory Board on Respiratory Care  
Nursing, Board of  
Technology and Science, Joint Commission on

**August 3**

Deaf and Hard-of-Hearing, Department for the  
† Environmental Quality, Department of  
Medicine, Board of  
- Advisory Board on Acupuncture  
Technology and Science, Joint Commission on

**August 4**

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Contractors, Board for  
† Environmental Quality, Department of  
Medicine, Board of  
- Advisory Board on Athletic Training  
- Advisory Board on Physician Assistants

**August 5**

Art and Architectural Review Board

**August 8**

Agriculture and Forestry, Secretary of  
† Economic Development Partnership, Virginia

**August 9**

† Agriculture and Forestry, Secretary of  
Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Chesapeake Bay Local Assistance Board  
Environmental Quality, Department of  
† Jamestown-Yorktown Foundation  
Nursing, Board of  
Resources Authority, Virginia  
† Tourism Authority, Virginia  
Water Control Board, State

**August 10**

Administrative Rules, Joint Commission on  
† Adoption Laws and Policies, Joint Subcommittee on  
Air Pollution Control Board, State  
† Contractors, Board for  
† Information Technologies Agency, Virginia  
- Information Technology Investment Board  
† Medicine, Board of  
Sewage Handling and Disposal Appeal Review Board

**August 11**

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Committee  
Medical Assistance Services, Department of  
Olmstead Oversight Advisory Committee  
Protection and Advocacy, Virginia Office for  
- PAIMI Advisory Council

**August 12**

† Accountancy, Board of  
Dentistry, Board of  
Social Services, State Board of

**August 15**

Alcoholic Beverage Control Board  
Barbers and Cosmetology, Board for

**August 16**

Environmental Quality, Department of  
Medicine, Board of  
Nursing, Board of  
Retirement System, Virginia

**August 17**

Asbestos, Lead, and Home Inspectors, Virginia Board for  
Aviation Board, Virginia  
Code Commission, Virginia  
Milk Commission, State  
Retirement System, Virginia  
Small Business Financing Authority, Virginia  
Social Services, State Board of  
Stem Cell Research, Joint Subcommittee Studying Medical,  
Ethical, and Scientific Issues Relating to

**August 18**

Audiology and Speech-Language Pathology, Board of  
Design-Build/Construction Management Review Board  
Retirement System, Virginia  
Social Services, State Board of

**August 19**

† Fire Services Board, Virginia  
Health Professions, Department of  
- Health Practitioners Intervention Program Committee  
Medicine, Board of  
Physical Therapy, Board of

**August 20**

† Fire Services Board, Virginia

**August 22**

Voting Equipment Certification Process, Joint  
Subcommittee Studying the

**August 23**

Agriculture and Consumer Services, Department of  
- Virginia Soybean Board  
Marine Resources Commission  
Nursing, Board of  
† Olmstead Oversight Advisory Committee  
Psychology, Board of  
Real Estate Appraiser Board

**August 24**

Medicine, Board of  
Nursing and Medicine, Joint Boards of  
† Social Work, Board of

**August 25**

Contractors, Board for  
Nursing, Board of  
Technology Services, Council on  
Water Control Board, State

**August 26**

Dentistry, Board of

**August 29**

† Agriculture and Consumer Services, Department of  
- Virginia Agricultural Council  
Alcoholic Beverage Control Board  
House and Senate Finance Committees



**August 30**

- † Agriculture and Consumer Services, Department of
  - Virginia Agricultural Council
- Contractors, Board for
- Nursing, Board of
- † Workforce Development and Training Resources, Joint Subcommittee Studying

**August 31**

- Freedom of Information Advisory Council, Virginia
- People with Disabilities, Virginia Board for

**September 1**

- People with Disabilities, Virginia Board for
- Polygraph Examiners Advisory Board

**September 8**

- Architects, Professional Engineers, Land Surveyors,
  - Certified Interior Designers and Landscape Architects,Board for
- † Barbers and Cosmetology, Board for
- Child Day-Care Council
- Conservation and Recreation, Department of
  - Falls of the James Scenic River Advisory Committee
- Criminal Justice Services Board
- † Information Technologies Agency, Virginia
  - Information Technology Investment Board

**September 9**

- Art and Architectural Review Board
- Child Fatality Review Team, State

**September 12**

- † Adoption Laws and Policies, Joint Subcommittee on
- Alcoholic Beverage Control Board
- Technology and Science, Joint Commission on

**September 13**

- Gaming Board, Charitable
- Land Evaluation Advisory Council, State
- Medical Assistance Services, Board of
- † Medicine, Board of
- Olmstead Oversight Advisory Committee
- Pharmacy, Board of

**September 14**

- At-Risk Youth and Families, Comprehensive Services for
- Community Colleges, State Board for
- Information Technologies Agency, Virginia
  - E-911 Wireless Services Board
- † Labor and Industry, Department of
  - Virginia Apprenticeship Council
- Olmstead Oversight Advisory Committee
- † Real Estate Appraiser Board
- Sewage Handling and Disposal Appeal Review Board
- Technology and Science, Joint Commission on
- Waterworks and Wastewater Works Operators, Board for

**September 15**

- Community Colleges, State Board for
- Conservation and Recreation, Department of
  - Virginia Soil and Water Conservation Board
- Design-Build/Construction Management Review Board
- Real Estate Board

**September 16**

- † Correctional Education, Board of
- Dentistry, Board of
- Medicine, Board of
- Social Work, Board of
- Water Control Board, State

**September 17**

- † Blind and Vision Impaired, Department for the
  - Statewide Rehabilitation Council for the Blind

**September 19**

- Chesapeake Bay Local Assistance Board
- Library Board, State
- Nursing, Board of
- Professional and Occupational Regulation, Board for

**September 20**

- Alzheimer's Disease and Related Disorders Commission
- Corrections, Board of
- Nursing, Board of
- Protection and Advocacy, Virginia Office for
  - Board for Protection and Advocacy
- Research and Technology Advisory Commission, Virginia

**September 21**

- Code Commission, Virginia
- Corrections, Board of
- Education, Board of
- Medical Assistance Services, Department of
- Nursing, Board of
- Stem Cell Research, Joint Subcommittee Studying Medical,
  - Ethical and Scientific Issues Relating to
- † Transportation Board, Commonwealth
- † Workforce Development Training Resources, Joint Subcommittee Studying

**September 22**

- Nursing, Board of

**September 23**

- † Health, Department of
  - Hemophilia Advisory Board

**September 26**

- Alcoholic Beverage Control Board

**September 27**

- Marine Resources Commission

**September 28**

- † Air Pollution Control Board, State
  - Small Business Environmental Compliance Advisory Board

**September 29**

- Public Guardian and Conservator Advisory Board, Virginia

**October 4**

- Nursing, Board of

**October 5**

- † Information Technology Agency, Virginia
  - Information Technology Investment Board

**October 6**

- Auctioneers Board

**October 7**

- Art and Architectural Review Board

**October 11**

- Alcoholic Beverage Control Board
- Nursing, Board of
- Psychology, Board of
- Technology and Science, Joint Commission on
- Transportation Board, Commonwealth

**October 12**

- Geology, Board for
- † Jamestown-Yorktown Foundation
- † Litter Control and Recycling Fund Advisory Board
- † Nursing Home Administrators, Board of
- † Retirement System, Virginia

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## Calendar of Events

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† Soil Scientists and Wetland Professionals, Board for  
† Technology and Science, Joint Commission on

**October 13**  
† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Committee  
† Olmstead Oversight Advisory Committee

**October 17**  
† Nursing, Board of

**October 18**  
† Contractors, Board for  
† Nursing, Board of  
† Technology and Science, Joint Commission on

**October 19**  
† Cemetery Board  
Code Commission, Virginia  
† Nursing and Medicine, Joint Boards of  
† Sewage Handling and Disposal Appeal Review Board  
† Technology and Science, Joint Commission on

**October 20**  
† Design-Build/Construction Management Review Board  
† Nursing, Board of

**October 21**  
† Health, Department of  
† Health Professions, Department of

**October 24**  
† Alcoholic Beverage Control Board

**October 25**  
† Chesapeake Bay Local Assistance Board  
† Nursing, Board of

**November 15**

Research and Technology Advisory Commission, Virginia  
Stem Cell Research, Joint Subcommittee Studying Medical,  
Ethical and Scientific Issues Relating to  
† Workforce Development Training Resources, Joint  
Subcommittee Studying

**November 21**  
Voting Equipment Certification Process, Joint  
Subcommittee Studying the

### PUBLIC HEARINGS

**August 10**  
Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
† Veterinary Medicine, Board of

**August 11**  
Waste Management Facility Operators, Board for  
Waterworks and Wastewater Works Operators, Board for

**August 15**  
Barbers and Cosmetology, Board for

**August 17**  
Air Pollution Control Board, State

**August 30**  
† Water Control Board, State

**September 8**  
Criminal Justice Services Board

**November 9**  
Juvenile Justice, Board of