



VIRGINIA

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VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **James M. LeMunyon**, Vice Chair, **Gregory D. Habeeb**; **Ryan T. McDougle**; **Pamela S. Baskerville**; **Robert L. Calhoun**; **Carlos L. Hopkins**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Robert L. Tavenner**.

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

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

March 2015 through March 2016

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
31:14	February 18, 2015	March 9, 2015
31:15	March 4, 2015	March 23, 2015
31:16	March 18, 2015	April 6, 2015
31:17	April 1, 2015	April 20, 2015
31:18	April 15, 2015	May 4, 2015
31:19	April 29, 2015	May 18, 2015
31:20	May 13, 2015	June 1, 2015
31:21	May 27, 2015	June 15, 2015
31:22	June 10, 2015	June 29, 2015
31:23	June 24, 2015	July 13, 2015
31:24	July 8, 2015	July 27, 2015
31:25	July 22, 2015	August 10, 2015
31:26	August 5, 2015	August 24, 2015
32:1	August 19, 2015	September 7, 2015
32:2	September 2, 2015	September 21, 2015
32:3	September 16, 2015	October 5, 2015
32:4	September 30, 2015	October 19, 2015
32:5	October 14, 2015	November 2, 2015
32:6	October 28, 2015	November 16, 2015
32:7	November 11, 2015	November 30, 2015
32:8	November 24, 2015 (Tuesday)	December 14, 2015
32:9	December 9, 2015	December 28, 2015
32:10	December 21, 2015 (Monday)	January 11, 2016
32:11	January 6, 2016	January 25, 2016
32:12	January 20, 2016	February 8, 2016
32:13	February 3, 2016	February 22, 2016
32:14	February 17, 2016	March 7, 2016

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Initial Agency Notice

Title of Regulation: 2VAC5-317. Regulations for the Enforcement of the Noxious Weeds Law.

Statutory Authority: § 3.2-802 of the Code of Virginia.

Name of Petitioner: Dean Amel, Arlington County Urban Forestry Commission.

Nature of Petitioner's Request: Petitioner urges VDACS to include in 2VAC5-317 a more comprehensive list of nonnative invasive species based on the Department of Conservation and Recreation list of invasive alien plant species in our state. Species on this list currently not offered for sale should be banned from future sales; plants on this list that are currently for sale should be phased out from sale over time. If the Commonwealth of Virginia is unwilling to take such steps to control nonnative invasive species, then local jurisdictions should be permitted to undertake eradication and suppression efforts.

Agency Plan for Disposition of Request: The Board of Agriculture and Consumer Services will consider this request at its next scheduled meeting following the public comment period. This meeting will occur on May 21, 2015.

Public Comment Deadline: March 30, 2015.

Agency Contact: Andres Alvarez, Director, Division of Consumer Protection, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 225-3821, or email andres.alvarez@vdacs.virginia.gov.

VA.R. Doc. No. R15-22; Filed February 5, 2015, 4:20 p.m.

Initial Agency Notice

Title of Regulation: 2VAC5-317. Regulations for the Enforcement of the Noxious Weeds Law.

Statutory Authority: § 3.2-802 of the Code of Virginia.

Name of Petitioner: Kurt Louis, Arlington County Parks and Natural Resources Division.

Nature of Petitioner's Request: Petitioner urges VDACS to reevaluate the criteria by which plants are classified as noxious weeds in 2VAC5-317 and incorporate the following changes into the regulation:

- Utilize the Virginia Department of Conservation and Recreation's (DCR) most current list of Invasive Alien Plant Species of Virginia as the basis for determining inclusion on the noxious weeds list. Using this well-researched, science-based, comprehensive list as the basis for state regulation will have a far greater impact at limiting

the introduction, dissemination and spread of invasive plants.

- Any species classified as highly or moderately invasive in DCR's most recent "Invasive and Alien Plant Species of Virginia" list, that are not currently in commercial production in Virginia, should be placed on the Tier 1 List of Noxious Weeds.

- Listing as a "Tier 1 noxious weed" forbids sale and movement of certain invasive plants known to do extensive damage.

- Any species classified as highly or moderately invasive in DCR's most recent "Invasive and Alien Plant Species of Virginia" list, that are currently in commercial production in Virginia, should be placed on the Tier 2 List of Noxious Weeds for a defined number of years to allow growers a chance to start producing alternative plants for sale.

- Require labeling of commercially available noxious weeds during the time that they are still permitted to be sold on the Tier 2 List (as noted above). The label shall include a warning stating that the species are invasive and shall include a listing of noninvasive alternative plant species.

- Phase out any species listed on the DCR list as invasive from commercial sale. For trees, growers should be prohibited from starting new plants once listed. Trees currently in production would be allowed to be sold with a warning (see above), unless quarantined or restricted for other reasons. Other plants that are currently in production in Virginia may be continued to be sold for a defined number of years, unless quarantined or restricted for other reasons.

- Address whether successful eradication is likely/unlikely, and successful suppression is likely/feasible (as specified in definitions of Tier 1/Tier 2 Noxious Weeds in the regulation as currently proposed by VDACS) on a species-by-species basis, grouped as subcategories within Arlington's proposed definitions of Tier 1 and Tier 2 species (above).

- Permit local jurisdictions to create lists of invasive plant species to be banned from sale and distribution within their jurisdiction.

Agency Plan for Disposition of Request: The Board of Agriculture and Consumer Services will consider this request at its next scheduled meeting following the public comment period. This meeting will occur on May 21, 2015.

Public Comment Deadline: March 30, 2015.

Agency Contact: Andres Alvarez, Director, Division of Consumer Protection, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218,

Petitions for Rulemaking

telephone (804) 225-3821, or email
andres.alvarez@vdacs.virginia.gov.

VA.R. Doc. No. R15-23; Filed February 5, 2015, 3:58 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Agency Decision

Title of Regulation: **18VAC90-30. Regulations Governing the Licensure of Nurse Practitioners.**

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

Name of Petitioner: Carol Hartigan.

Nature of Petitioner's Request: To add the American Association of Critical-Care Nurses (AACN) Certification Corporation to the list of board-approved certification organizations for nurse practitioner licensure.

Agency Decision: Request granted.

Statement of Reason for Decision: The board has adopted a fast-track action to add the AACN to the list of certifying bodies.

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

VA.R. Doc. No. R14-35; Filed February 9, 2015, 4:25 p.m.

REGULATIONS

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

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

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

Title of Regulation: **4VAC20-450. Pertaining to the Taking of Bluefish (amending 4VAC20-450-30).**

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

Effective Date: February 26, 2015.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments establish the annual commercial bluefish quota as 608,230 pounds.

4VAC20-450-30. Commercial landings quota.

A. ~~During the period of January 1 through December 31,~~ The annual commercial landings of bluefish shall be limited to ~~886,040~~ 608,230 pounds ~~in 2014.~~

B. When it is projected that 95% of the commercial landings quota has been realized, a notice will be posted to close commercial harvest and landings from the bluefish fishery within five days of posting.

C. It shall be unlawful for any person to harvest or land bluefish for commercial purposes after the closure date set forth in the notice described in subsection B of this section.

V.A.R. Doc. No. R15-4271; Filed February 25, 2015, 4:49 p.m.

Emergency Regulation

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-15, 4VAC20-720-40).**

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

Effective Dates: February 25, 2015, through March 26, 2015.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600

Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Preamble:

The amendments extend the public harvest oyster season dates for York River Rotation Area 1, Milford Haven, Deep Rock Area, Rappahannock River Area 8, and Pocomoke and Tangier Sounds Rotation Area 2 until March 13, 2015, and suspend the sale of oyster hand scrape and oyster dredge licenses until the Marine Resources Commission reinstates the sale of those licenses.

4VAC20-720-15. Control date.

A. The commission hereby establishes July 1, 2014, as the control date for management of all public oyster fisheries in Virginia. Participation by any individual in any public oyster fishery after the control date will not be considered in the calculation or distribution of oyster fishing rights should entry limitations be established. Any individual entering the public oyster fishery after the control date will forfeit any right to future participation in the public oyster fishery should further entry limitations be established by the commission.

B. The sale of oyster hand scrape and oyster dredge licenses shall be suspended until the commission reinstates the sale of those licenses.

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

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

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

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area: October 1, 2014, through April 30, 2015.

2. James River Area and the Thomas Rock Area (James River): November 1, 2014, through January 31, 2015.

3. York River Rotation Area 1: January 1, 2015, through ~~February 28, 2015~~ March 13, 2015.

4. Milford Haven: December 1, 2014, through ~~February 28, 2015~~ March 13, 2015.

5. Deep Rock Area: December 1, 2014, through ~~February 28, 2015~~ March 13, 2015.

6. Rappahannock River Rotation Area 1: October 1, 2014, through November 30, 2014.

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7. Rappahannock River Rotation Area 6: November 1, 2014, through December 31, 2014.
 8. Rappahannock River Area 7: December 1, 2014, through January 31, 2015.
 9. Rappahannock River Area 8: January 1, 2015, through ~~February 28, 2015~~ March 13, 2015.
 10. Rappahannock River Area 9: November 1, 2014, through December 31, 2014.
 11. Great Wicomico River Area: December 1, 2014, through January 31, 2015.
 12. Upper Chesapeake Bay - Blackberry Hangs Area: December 1, 2014, through January 31, 2015.
 13. Little Wicomico River: October 1, 2014, through December 31, 2014.
 14. Coan River: October 1, 2014, through December 31, 2014.
 15. Yeocomico River: October 1, 2014, through December 31, 2014.
 16. Nomini Creek: October 1, 2014, through December 31, 2014.
 17. Pocomoke and Tangier Sounds Rotation Area 2: December 1, 2014, through ~~February 28, 2015~~ March 13, 2015.
 18. Seaside of the Eastern Shore (for clean cull oysters only): November 1, 2014, through March 31, 2015.
- C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except during the lawful seasons. The harvest of seed oysters from the lawful areas is described in the following subdivisions of this subsection.
1. James River Seed Area: October 1, 2014, through May 31, 2015.
 2. Deep Water Shoal State Replenishment Seed Area: October 1, 2014, through May 31, 2015.

V.A.R. Doc. No. R15-4292; Filed February 25, 2015, 4:39 p.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Virginia Waste Management Board will receive, consider, and respond to petitions by any

interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC20-60. Virginia Hazardous Waste Management Regulations (amending 9VAC20-60-18, 9VAC20-60-262 through 9VAC20-60-265).**

Statutory Authority: §§ 10.1-1402 and 10.1-1426 of the Code of Virginia; 42 USC § 6921; 40 CFR Parts 260 through 272.

Effective Date: April 8, 2015.

Agency Contact: Debra Harris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4019, or email debra.harris@deq.virginia.gov.

Summary:

The amendments incorporate the July 1, 2014, update of Title 40 of the Code of Federal Regulations; modify the adoption of 40 CFR Part 262 to include the requirements for the electronic manifest rule; and add an exception so that the provisions for imposition of a user fee under 40 CFR 262.24(g), 40 CFR 263.20(a)(8), 40 CFR 264.71(j), and 40 CFR 265.71(j) are not incorporated.

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

Except as noted, when a regulation of the United States Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced and incorporated herein, that regulation shall be as it exists and has been published in the July 1, ~~2013~~ 2014, update ~~and shall also include the conditional exclusions for solvent contaminated wipes as promulgated by the United States Environmental Protection Agency in 78 FR 46448 (July 31, 2013).~~

9VAC20-60-262. Adoption of 40 CFR Part 262 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 262 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials, and other ancillaries that are ~~a part~~ parts of 40 CFR Part 262 are also hereby incorporated as ~~part~~ parts of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 262 is incorporated by reference, the following additions, modifications, and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. In 40 CFR 262.42(a)(2), the words "for the Region in which the generator is located" is deleted from the incorporated text and is not a part of these regulations.
2. In 40 CFR 262.12, 40 CFR 262.53, 40 CFR 262.54, 40 CFR 262.55, 40 CFR 262.56, and 40 CFR 262.57, the term "Administrator" shall mean the administrator of the United States Environmental Protection Agency or his designee.

3. In 40 CFR 262.12, 40 CFR 262.53, 40 CFR 262.54, 40 CFR 262.55, 40 CFR 262.56, and 40 CFR 262.57, the term "Regional Administrator" shall mean the regional administrator of Region III of the United States Environmental Protection Agency or his designee.

4. For accumulation areas established before March 1, 1988, a generator who is not otherwise exempted by 40 CFR 261.5 shall notify the department of each location where he accumulates hazardous waste in accordance with 40 CFR 262.34 by March 1, 1988. For accumulation areas established after March 1, 1988, he shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34 prior to or immediately upon the establishment of each accumulation area. In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.

5. In addition to the requirements in 40 CFR Part 262, management of hazardous wastes is required to comply with the Regulations Governing the Transportation of Hazardous Materials (9VAC20-110), including packaging and labeling for transport.

6. A generator shall not offer his hazardous waste to a transporter that has not received an EPA identification number or to a facility that has not received a permit and an EPA identification number.

7. In 40 CFR 262.24, 40 CFR 262.25, and 40 CFR Part 262, Subpart H, the terms "EPA" and "Environmental Protection Agency" shall mean the United States Environmental Protection Agency.

8. In addition to the requirements of this section, large quantity generators are required to pay an annual fee. The fee schedule and fee regulations are contained in Part XII (9VAC20-60-1260 through ~~9VAC20-60-1285~~ 9VAC20-60-1286) of this chapter.

9. Within 40 CFR 262.24, the reference to "system" means the United States Environmental Protection Agency's national electronic manifest system.

10. Regardless of the provisions of 9VAC20-60-18, the requirements of 40 CFR 262.24(g) are not incorporated into this chapter.

9VAC20-60-263. Adoption of 40 CFR Part 263 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 263 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference

materials, and other ancillaries that are ~~a part~~ part of 40 CFR Part 263 are also hereby incorporated as ~~part~~ part of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 263 is incorporated by reference, the following additions, modifications, and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. Additional requirements for transportation of hazardous materials are included in Part VII (9VAC20-60-420 et seq.) of ~~these regulations~~ this chapter and in the Regulations Governing the Transportation of Hazardous Materials (~~9VAC20-110-10 et seq.~~) (9VAC20-110).

2. Sections of 40 CFR 263.21(a)(2), 40 CFR 263.30, and 40 CFR 263.31 are not incorporated by reference and are not a part of the Virginia Hazardous Waste Management Regulations. See 9VAC20-60-490 for requirements related to transportation discharge management.

3. In 40 CFR 263.20, the terms "EPA" and "Environmental Protection Agency" shall mean the United States Environmental Protection Agency, and the reference to "system" means the United States Environmental Protection Agency's national electronic manifest system.

4. Regardless of the provisions of 9VAC20-60-18, the requirements of 40 CFR 263.20(a)(8) are not incorporated into this chapter.

9VAC20-60-264. Adoption of 40 CFR Part 264 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 264 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials, and other ancillaries that are a part of 40 CFR Part 264 are also hereby incorporated as part of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 264 is incorporated by reference, the following additions, modifications, and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. Sections 40 CFR 264.1(d), 40 CFR 264.1(f), 40 CFR 264.149, 40 CFR 264.150, 40 CFR 264.301(l), and Appendix VI are not included in the incorporation of 40 CFR Part 264 by reference and are not a part of the Virginia Hazardous Waste Management Regulations.

2. In 40 CFR 264.1(g)(11) and wherever elsewhere in Title 40 of the Code of Federal Regulations there is a listing of universal wastes or a listing of hazardous wastes that are the subject of provisions set out in 40 CFR Part 273 as universal wastes, it shall be amended by addition of the following sentence: "In addition to the hazardous wastes listed herein, the term "universal waste" and all lists of universal waste or waste subject to provisions of 40 CFR Part 273 shall include those hazardous wastes listed in Part

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XVI (9VAC20-60-1495 et seq.) of the Virginia Hazardous Waste Management Regulations as universal wastes, under such terms and requirements as shall therein be ascribed."

3. In 40 CFR 264.12(a), the term "Regional Administrator" shall mean the regional administrator of Region III of the United States Environmental Protection Agency or his designee.

4. In 40 CFR 264.33, the following sentence shall be added to the end of the paragraph: "A record of tests or inspections will be maintained on a log at that facility or other reasonably accessible and convenient location."

5. In addition to the notifications required by 40 CFR 264.56(d)(2), notification shall be made to the on-scene coordinator, the National Response Center, and the Virginia Department of Emergency Management, Emergency Operations Center. In the associated report filed under 40 CFR 264.56(j), the owner or operator shall include such other information specifically requested by the director, which is reasonably necessary and relevant to the purpose of an operating record.

6. In 40 CFR 264.93, "hazardous constituents" shall include constituents identified in 40 CFR Part 264 Appendix IX in addition to those in 40 CFR Part 261 Appendix VIII.

7. The federal text at 40 CFR 264.94(a)(2) is not incorporated by reference. The following text shall be substituted for 40 CFR 264.94(a)(2): "For any of the constituents for which the USEPA has established a Maximum Contaminant Level (MCL) under the National Primary Drinking Water Regulation, 40 CFR Part 141 (regulations under the Safe Drinking Water Act), the concentration must not exceed the value of the MCL; or if the background level of the constituent is below the MCL; or."

8. The owner or operator must submit the detailed, written closure cost estimate described in 40 CFR 264.142 upon the written request of the director.

9. In 40 CFR 264.143(b)(1), 40 CFR 264.143(c)(1), 40 CFR 264.145(b)(1), and 40 CFR 264.145(c)(1), any surety issuing surety bonds to guarantee payment or performance must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia.

10. In 40 CFR 264.143(b), 40 CFR 264.143(c), 40 CFR 264.145(b), and 40 CFR 264.145(c), any owner or operator demonstrating financial assurance for closure or post-closure care using a surety bond shall submit with the surety bond a copy of the deed book page documenting that the power of attorney of the attorney-in-fact executing the bond has been recorded pursuant to § 38.2-2416 of the Code of Virginia.

11. Where in 40 CFR 264.143(c)(5) the phrase "final administrative determination pursuant to section 3008 of RCRA" appears, it shall be replaced with "final

determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia."

12. The following text shall be substituted for 40 CFR 264.143(d)(8): "Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia that the owner or operator has failed to perform final closure in accordance with the approved closure plan, the applicable regulations or other permit requirements when required to do so, the director may draw on the letter of credit."

13. The following text shall be substituted for 40 CFR 264.143(e)(1): "An owner or operator may satisfy the requirements of this section by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance, along with a complete copy of the insurance policy, to the department. An owner or operator of a new facility must submit the certificate of insurance along with a complete copy of the insurance policy to the department at least 60 days before the date on which the hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia."

14. The following text shall be substituted for 40 CFR 264.143(f)(3)(ii), 40 CFR 264.145(f)(3)(ii), and 40 CFR 264.147(f)(3)(ii): "A copy of the owner's or operator's audited financial statements for the latest completed fiscal year; including a copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and"

15. In addition to the other requirements in 40 CFR 264.143(f)(3), 40 CFR 264.145(f)(3), and 40 CFR 264.147(f)(3), an owner or operator must submit confirmation from the rating service that the owner or operator has a current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's if the owner or operator passes the financial test with a bond rating as provided in ~~subsection 1(ii)(A)~~ 40 CFR 264.143(f)(1)(ii)(A).

16. The following text shall be substituted for 40 CFR 264.143(h) and 40 CFR 264.145(h): "An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility in Virginia. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure or post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate

mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure or post-closure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism."

17. In addition to the requirements of 40 CFR 264.144, "the owner or operator must submit a detailed, written post-closure cost estimate upon the written request of the director."

18. The following text shall be substituted for 40 CFR 264.144(b): "During the active life of the facility and the post-closure period, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with 40 CFR 264.145. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in 40 CFR 264.145(f)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business as specified in 40 CFR 264.142(b)(1) and (2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

a. The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

b. Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor."

19. The following text shall be substituted for 40 CFR 264.144(c): "During the active life of the facility and the post-closure period, the owner or operator must revise the post-closure cost estimate within 30 days after the director has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in 264.144(b)."

20. Where in 40 CFR 264.145(c)(5) the phrase "final administrative determination pursuant to section 3008 of RCRA" appears, it shall be replaced with "final determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia."

21. The following text shall be substituted for 40 CFR 264.145(d)(9): "Following a final administrative determination pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia that the owner or

operator has failed to perform post-closure in accordance with the approved post-closure plan, the applicable regulations, or other permit requirements when required to do so, the director may draw on the letter of credit."

22. The following text shall be substituted for 40 CFR 264.145(e)(1): "An owner or operator may satisfy the requirements of this section by obtaining post-closure insurance which ~~confirms~~ conforms to the requirements of this paragraph and submitting a certificate of such insurance to the department. An owner or operator of a new facility must submit the certificate of insurance along with a complete copy of the insurance policy to the department at least 60 days before the date on which the hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia."

23. In 40 CFR 264.147(a)(1)(ii), 40 CFR 264.147(b)(1)(ii), 40 CFR 264.147(g)(2), and 40 CFR 264.147(i)(4), the term "Virginia" shall not be substituted for the term "State" or "States."

24. In 40 CFR 264.191(a), the compliance date of January 12, 1988, applies only for HSWA tanks. For non-HSWA tanks, the compliance date is November 2, 1997, instead of January 12, 1997.

25. In 40 CFR 264.191(c), the reference to July 14, 1986, applies only to HSWA tanks. For non-HSWA tanks, the applicable date is November 2, 1987, instead of July 14, 1986.

26. In 40 CFR 264.193, the federal effective dates apply only to HSWA tanks. For non-HSWA tanks, the applicable date is November 2, 1997, instead of January 12, 1997.

27. A copy of all reports made in accordance with 40 CFR 264.196(d) shall be sent to the director and to the chief administrative officer of the local government of the jurisdiction in which the event occurs. The sentence in 40 CFR 264.196(d)(1), "If the release has been reported pursuant to 40 CFR Part 302, that report will satisfy this requirement." is not incorporated by reference into these regulations and is not a part of the Virginia Hazardous Waste Management Regulations.

28. The following text shall be substituted for 40 CFR 264.570(a): "The requirements of this subpart apply to owners and operators of facilities that use new or existing drip pads to convey wood drippage, precipitation and/or surface water run-off to an associated collection system. Existing HSWA drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 6, 1990. Existing non-HSWA drip pads are those constructed before January 14, 1993, and those for which the owner or operator has a design and has entered

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into a binding financial or other agreements for construction prior to January 14, 1993. All other drip pads are new drip pads. The requirement at 40 CFR 264.573(b)(3) to install a leak collection system applies only to those HSWA drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 24, 1992. For non-HSWA drip pads, the requirement at 40 CFR 264.573(b)(3) to install a leak collection system applies only to those non-HSWA drip pads that are constructed after September 8, 1993, except for those constructed after September 8, 1993, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to September 8, 1993."

29. In 40 CFR 264.1030(c), the reference to 40 CFR 124.15 shall be replaced by a reference to 40 CFR 124.5.

30. The underground injection of hazardous waste for treatment, storage, or disposal shall be prohibited throughout the Commonwealth of Virginia.

31. In addition to the notices required in Subpart B and others parts of 40 CFR Part 264, the following notices are also required:

a. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source (a source located outside of the United States of America) shall notify the department and administrator in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

b. The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator of the facility is also the generator of this waste) shall inform the generator in writing that he has appropriate permits for, and will accept, the waste that the generator is shipping. The owner or operator shall keep a copy of this written notice as part of the operating record.

c. Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements contained in ~~9VAC20-60-264~~ this section and 9VAC20-60-270. An owner or operator's failure to notify the new owner or operator of the above requirements in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

d. Any person responsible for the release of a hazardous substance from the facility ~~which that~~ poses an immediate or imminent threat to public health and who is required by law to notify the National Response Center

shall notify the department and the chief administrative officer of the local government of the jurisdiction in which the release occurs or their designees. In cases when the released hazardous substances are hazardous wastes or hazardous waste constituents additional requirements are prescribed by Subpart D of 40 CFR Part 264.

32. In 40 CFR 264.71, the terms "EPA" and "Environmental Protection Agency" shall mean the United States Environmental Protection Agency, and the reference to "system" means the United States Environmental Protection Agency's national electronic manifest system.

33. Regardless of the provisions of 9VAC20-60-18, the requirements of 40 CFR 264.71(j) are not incorporated into this chapter.

9VAC20-60-265. Adoption of 40 CFR Part 265 by reference.

A. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 265 are hereby incorporated as part of the Virginia Hazardous Waste Management Regulations. Except as otherwise provided, all material definitions, reference materials, and other ancillaries that are ~~a part~~ parts of 40 CFR Part 265 are also hereby incorporated as ~~part~~ parts of the Virginia Hazardous Waste Management Regulations.

B. In all locations in these regulations where 40 CFR Part 265 is incorporated by reference, the following additions, modifications, and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations:

1. Sections 40 CFR 265.1(c)(4), 40 CFR 265.149, and 40 CFR 265.150 and Subpart R of 40 CFR Part 265 are not included in the incorporation of 40 CFR Part 265 by reference and are not a part of the Virginia Hazardous Waste Management Regulations.

2. In 40 CFR 265.1(c)(14) and wherever elsewhere in Title 40 of the Code of Federal Regulations there is a listing of universal wastes or a listing of hazardous wastes that are the subject of provisions set out in 40 CFR Part 273 as universal wastes, it shall be amended by addition of the following sentence: "In addition to the hazardous wastes listed herein, the term "universal waste" and all lists of universal waste or waste subject to provision of 40 CFR Part 273 shall include those hazardous wastes listed in Part XVI (9VAC20-60-1495 et seq.) of the Virginia Hazardous Waste Management Regulations as universal wastes, under such terms and requirements as shall therein be ascribed."

3. A copy of all reports and notices made in accordance with 40 CFR 265.12 shall be sent to the department, the administrator, and ~~to~~ the chief administrative officer of the local government of the jurisdiction in which the event occurs.

4. In 40 CFR 265.12(a), the term "Regional Administrator" shall mean the regional administrator of Region III of the

United States Environmental Protection Agency or his designee.

5. In 40 CFR 265.33, the following sentence shall be added to the end of the paragraph: "A record of tests or inspections will be maintained on a log at that facility or other reasonably accessible and convenient location."

6. In addition to the notifications required by 40 CFR 265.56(d)(2), notification shall be made to the on-scene coordinator, the National Response Center, and the Virginia Department of Emergency Management, Emergency Operations Center. In the associated report filed under 40 CFR 265.56(j), the owner or operator shall include such other information specifically requested by the director, which is reasonably necessary and relevant to the purpose of an operating record.

7. In addition to the requirements of 40 CFR 265.91, a log shall be made of each ground water monitoring well describing the soils or rock encountered, the permeability of formations, and the cation exchange capacity of soils encountered. A copy of the logs with appropriate maps shall be sent to the department.

8. The following text shall be substituted for 40 CFR 265.143(g) and 40 CFR 265.145(g): "An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility in Virginia. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure or post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure or post-closure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

9. In 40 CFR 265.147(a)(1)(ii), 40 CFR 265.147(g)(2), and 40 CFR 265.147(i)(4), the term "Virginia" shall not be substituted for the term "State" or "States."

10. In 40 CFR 265.191(a), the compliance date of January 12, 1988, applies only for HSWA tanks. For non-HSWA tanks, the compliance date is November 2, 1986.

11. In 40 CFR 265.191(c), the reference to July 14, 1986, applies only to HSWA tanks. For non-HSWA tanks, the applicable date is November 2, 1987.

12. In 40 CFR 265.193, the federal effective dates apply only to HSWA tanks. For non-HSWA tanks, the applicable date is January 12, 1987 is replaced with November 2, 1997.

13. The following text shall be substituted for 40 CFR 265.440(a): "The requirements of this subpart apply to owners and operators of facilities that use new or existing drip pads to convey wood drippage, precipitation and/or surface water run-off to an associated collection system. Existing HSWA drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 6, 1990. Existing non-HSWA drip pads are those constructed before January 14, 1993, and those for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to January 14, 1993. All other drip pads are new drip pads. The requirement at 40 CFR 265.443(b)(3) to install a leak collection system applies only to those HSWA drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to December 24, 1992. For non-HSWA drip pads, the requirement at 40 CFR 264.573(b)(3) to install a leak collection system applies only to those non-HSWA drip pads that are constructed after September 8, 1993, except for those constructed after September 8, 1993, for which the owner or operator has a design and has entered into a binding financial or other agreement for construction prior to September 8, 1993."

14. In 40 CFR 265.1083(c)(4)(ii), the second occurrence of the term "EPA" shall mean the United States Environmental Protection Agency.

15. In addition to the requirements of 40 CFR 265.310, the owner or operator shall consider at least the following factors in addressing the closure and post-closure care objectives of this part:

- a. Type and amount of hazardous waste and hazardous waste constituents in the landfill;
- b. The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;
- c. Site location, topography, and surrounding land use, with respect to the potential effects of pollutant migration;
- d. Climate, including amount, frequency, and pH of precipitation;
- e. Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and
- f. Geological and soil profiles and surface and subsurface hydrology of the site.

16. Additionally, during the post-closure care period, the owner or operator of a hazardous waste landfill shall

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comply with the requirements of 40 CFR 265.116 and the following items:

- a. Maintain the function and integrity of the final cover as specified in the approved closure plan;
- b. Maintain and monitor the leachate collection, removal, and treatment system, if present, to prevent excess accumulation of the leachate in the system;
- c. Maintain and monitor the landfill gas collection and control system, if present, to control the vertical and horizontal escape of gases;
- d. Protect and maintain, if present, surveyed benchmarks; and
- e. Restrict access to the landfill as appropriate for its post-closure use.

17. The underground injection of hazardous waste for treatment, storage, or disposal shall be prohibited throughout the Commonwealth of Virginia.

18. Regulated units of the facility are those units used for storage treatment or disposal of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills that received hazardous waste after July 26, 1982. In addition to the requirements of Subpart G of 40 CFR Part 265, owners or operators of regulated units who manage hazardous wastes in regulated units shall comply with the closure and post-closure requirements contained in Subpart G of 40 CFR Part 264, Subpart H of 40 CFR Part 264, and Subpart K of 40 CFR Part 264 through Subpart N of 40 CFR Part 264, as applicable, and shall comply with the requirements in Subpart F of 40 CFR Part 264 during any post-closure care period and for the extended ground water monitoring period, rather than the equivalent requirements contained in 40 CFR Part 265. The following provisions shall also apply:

- a. For owners or operators of surface impoundments or waste piles included above who intend to remove all hazardous wastes at closure in accordance with 40 CFR 264.228(a)(1) or 40 CFR 264.258(a), as applicable, submittal of contingent closure and contingent post-closure plans is not required. However, if the facility is subsequently required to close as a landfill in accordance with Subpart N of 40 CFR Part 264, a modified closure plan shall be submitted no more than 30 days after such determination. These plans will be processed as closure plan amendments. For such facilities, the corresponding post-closure plan shall be submitted within 90 days of the determination that the unit shall be closed as a landfill.
- b. A permit application as required under 9VAC20-60-270 to address the post-closure care requirements of 40 CFR 264.117 and for ground water monitoring requirements of 40 CFR 264.98, 40 CFR 264.99, or 40 CFR 264.100, as applicable, shall be submitted for all regulated units ~~which that~~ fail to satisfy the requirements of closure by removal or decontamination in 40 CFR

264.228(a)(1), 40 CFR 264.258(a), or 40 CFR 264.280(d) and 40 CFR 264.280(e), as applicable. The permit application shall be submitted at the same time as the closure plan for those units closing with wastes in place and six months following the determination that closure by removal or decontamination is unachievable for those units attempting such closure. The permit application shall address the post-closure care maintenance of both the final cover and the ground water monitoring wells as well as the implementation of the applicable ground water monitoring program whenever contaminated soils, subsoils, liners, etc., are left in place. When all contaminated soils, subsoils, liners, etc., have been removed yet ground water contamination remains, the permit application shall address the post-closure care maintenance of the ground water monitoring wells as well as the implementation of the applicable ground water monitoring program.

c. In addition to the requirements of 40 CFR 264.112(d)(2)(i) for requesting an extension to the ~~one~~ one-year limit, the owner or operator shall demonstrate that he will continue to take all steps to prevent threats to human health and the environment.

d. In addition to the requirements of 40 CFR 264.119(c), the owner or operator shall also request a modification to the post-closure permit if he wishes to remove contaminated structures and equipment.

19. In 40 CFR 265.71, the terms "EPA" and "Environmental Protection Agency" shall mean the United States Environmental Protection Agency, and the reference to "system" means the United States Environmental Protection Agency's national electronic manifest system.

20. Regardless of the provisions of 9VAC20-60-18, the requirements of 40 CFR 265.71(j) are not incorporated into this chapter.

VA.R. Doc. No. R15-4223; Filed February 5, 2015, 9:45 a.m.

Final Regulation

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

Title of Regulation: **9VAC20-110. Regulations Governing the Transportation of Hazardous Materials (amending 9VAC20-110-110).**

Statutory Authority: §§ 10.1-1450 and 44-146.30 of the Code of Virginia; 49 USC §§ 1809 through 1810; 49 CFR Parts 107, 170 through 180, 383, and 390 through 397.

Effective Date: April 8, 2015.

Agency Contact: Debra Harris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4019, or email debra.harris@deq.virginia.gov.

Summary:

The amendment incorporates into Virginia regulation certain amendments promulgated by the U.S. Secretary of Transportation and made to federal regulations governing the transportation of hazardous materials as of October 1, 2014.

Part III

Compliance with Federal Regulations

9VAC20-110-110. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated as of October 1, ~~2013~~ 2014, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below and which are incorporated in these regulations by reference:

1. Special Permits. 49 CFR Part 107, Subpart B.
2. Registration of Persons Who Offer or Transport Hazardous Materials in 49 CFR Part 107, Subpart G.
3. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.
4. Specifications for Packagings in 49 CFR Part 178.
5. Specifications for Tank Cars in 49 CFR Part 179.
6. Continuing Qualification and Maintenance of Packagings in 49 CFR Part 180.
7. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

VA.R. Doc. No. R15-4274; Filed February 5, 2015, 9:42 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Final Regulation

Title of Regulation: **18VAC90-20. Regulations Governing the Practice of Nursing (adding 18VAC90-20-215).**

Statutory Authority: §§ 54.1-2400 and 54.1-3017.1 of the Code of Virginia.

Effective Date: April 8, 2015.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300,

Richmond, VA 23233-1463, telephone (804) 367-4515, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

Summary:

Pursuant to Chapter 712 of the 2011 Acts of Assembly, the Board of Nursing amended its regulations to provide for provisional licensure for a registered nurse (RN) applicant to obtain clinical experience. The regulation includes (i) requirements for qualification and submission of documents for approval as a provisional licensee; (ii) requirements for 500 hours of direct client care in the role of an RN including various areas of nursing; (iii) provisions for acceptance of previous clinical experience towards meeting the 500-hour requirement; (iv) requirements for supervision of a provisional licensee, including the qualifications and responsibilities of the supervising nurse; and (v) provisions for expiration and renewal of a provisional license.

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.

18VAC90-20-215. Provisional licensure of applicants for licensure as registered nurses.

A. Pursuant to § 54.1-3017.1 of the Code of Virginia, the board may issue a provisional license to an applicant for the purpose of meeting the 500 hours of supervised, direct (hands-on) client care required of an approved registered nurse education program.

B. Such applicants for provisional licensure shall submit:

1. A completed application for licensure by examination and fee;
2. Documentation that the applicant has successfully completed a nursing education program; and
3. Documentation of passage of NCLEX in accordance with 18VAC90-20-190.

C. Requirements for hours of [supervised clinical experience in] direct client care with a provisional license.

1. To qualify for licensure as a registered nurse, direct, hands-on hours of supervised clinical experience shall include the areas of adult medical/surgical nursing, geriatric nursing, maternal/infant (obstetrics, gynecology, neonatal) nursing, mental health/psychiatric nursing, nursing fundamentals, and pediatric nursing. Supervised clinical hours may be obtained in employment in the role of a registered nurse or without compensation for the purpose of meeting these requirements.

2. Hours of direct, hands-on clinical experience obtained as part of the applicant's nursing education program and noted on the official transcript shall be counted towards the minimum of 500 hours and in the applicable areas of clinical practice.

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3. For applicants with a current, active license as an LPN, 150 hours of credit shall be counted towards the 500-hour requirement.

4. [~~Up to~~] 100 hours of credit may be applied towards the 500-hour requirement for applicants who have successfully completed a nursing education program that:

a. Requires students to pass competency-based assessments of nursing knowledge as well as a summative performance assessment of clinical competency that has been evaluated by the American Council on Education or any other board-approved organization; and

b. Has a passage rate for first-time test takers on the NCLEX that is not less than 80%, calculated on the cumulative results of the past four quarters of all graduates in each calendar year regardless of where the graduate is seeking licensure.

5. An applicant for licensure shall submit verification from a supervisor of the number of hours of direct client care and the areas in which clinical experiences in the role of a registered nurse were obtained.

D. Requirements for supervision of a provisional licensee.

1. The supervisor shall be on site and physically present in the unit where the provisional licensee is providing clinical care of clients.

2. In the supervision of provisional licensees in the clinical setting, the ratio shall not exceed two provisional licensees to one supervisor at any given time.

3. Licensed registered nurses providing supervision for a provisional licensee shall:

a. Notify the board of the intent to provide supervision for a provisional licensee on a form provided by the board;

b. Hold an active, unrestricted license or multistate licensure privilege and have at least two years of active clinical practice as a registered nurse prior to acting as a supervisor;

c. Be responsible and accountable for the assignment of clients and tasks based on their assessment and evaluation of the supervisee's clinical knowledge and skills;

d. Be required to monitor clinical performance and intervene if necessary for the safety and protection of the clients; and

e. Document on a form provided by the board the frequency and nature of the supervision of provisional licensees to verify completion of hours of clinical experience.

E. The provisional status of the licensee shall be disclosed to the client prior to treatment and shall be indicated on identification worn by the provisional licensee.

F. All provisional licenses shall expire six months from the date of issuance and may be renewed for an additional six months. Renewal of a provisional license beyond the limit of 12 months shall be for good cause shown and shall be approved by the board. A request for extension of a provisional license beyond 12 months shall be made at least 30 days prior to its expiration.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (18VAC90-20)

[Application for Licensure by Endorsement -- Registered Nurse \(rev. 5/11\)](#)

[Instructions for Licensure by Endorsement -- Registered Nurse \(rev. 5/11\)](#)

[Instructions for Licensure by Endorsement -- Licensed Practical Nurse \(rev. 5/11\)](#)

[Application for Licensure by Endorsement -- Licensed Practical Nurse \(rev. 6/11\)](#)

[Verification of Clinical Practice -- Licensure by Endorsement \(rev. 1/10\)](#)

[Instructions and Application for Licensure by Examination for Registered Nurses \(rev. 8/11\)](#)

[Instructions and Application for Licensure by Examination - Licensed Practical Nurse \(rev. 8/11\)](#)

[Instructions and Application for Licensure by Repeat Examination for Registered Nurse \(rev. 8/11\)](#)

[Instructions and Application for Licensure by Repeat Examination for Licensed Practical Nurse \(rev. 8/11\)](#)

[Instructions and Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries \(rev. 6/11\)](#)

[Instructions and Application for Licensure by Examination for Registered Nurses Educated in Other Countries \(rev. 6/11\)](#)

[Declaration of Primary State of Residency for Purposes of the Nurse Licensure Compact \(rev. 6/11\)](#)

[Instructions for Application for Reinstatement -- Registered Nurse \(rev. 10/10\)](#)

[Application for Reinstatement -- Registered Nurse \(rev. 6/11\)](#)

[Instructions for Application for Reinstatement -- Licensed Practical Nurse \(rev. 2/10\)](#)

[Application for Reinstatement of License as a Licensed Practical Nurse \(rev. 6/11\)](#)

Instructions and Application for Reinstatement of License as a Registered Nurse Following Suspension or Revocation (rev. 6/11)

Instructions and Application for Reinstatement of License as a Licensed Practical Nurse Following Suspension or Revocation (rev. 6/11)

License Verification Form (rev. 10/09)

Procedure (rev. 3/10) and Application for Registration as a Clinical Nurse Specialist (rev. 6/11)

Application for Reinstatement of Registration as a Clinical Nurse Specialist (rev. 6/11)

Application to Establish a Nursing Education Program (rev. 6/11)

Agenda and Survey Visit Report -- Registered Nurse Education Program (rev. 4/08)

Agenda and Survey Visit Report -- Practical Nurse Education Program (rev. 4/08)

NCLEX Survey Visit Report (rev. 4/08)

Application for Registration for Volunteer Practice (rev. 7/07)

Sponsor Certification for Volunteer Registration (rev. 8/08)

~~[Verification of Supervised Clinical Practice -- Registered Nurse Provisional License (undated)~~

~~Notification of Intent to Supervise Clinical Practice -- Registered Nurse Provisional License (undated)~~

[Verification of Supervised Clinical Practice -- Registered Nurse Provisional License \(eff. 8/13\)](#)

[Notification of Intent to Supervise Clinical Practice -- Registered Nurse Provisional License \(eff. 8/13\)](#)]

VA.R. Doc. No. R13-2989; Filed February 9, 2015, 7:35 a.m.

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

February 2, 2015

Administrative Letter 2015-01

To: All Companies Licensed to Write Accident and Sickness Insurance in Virginia, All Health Services Plans and Health Maintenance Organizations Licensed in Virginia (Collectively Referred to as "Carriers" in this Letter)

Re: Section 38.2-3418.17 of the Code of Virginia - Coverage for Autism Spectrum Disorder - Section 38.2-3432.2 - Guaranteed Availability

The 2011 Virginia General Assembly enacted § 38.2-3418.17 of the Code of Virginia (Code), known as the autism mandate, which provides for the diagnosis and treatment of autism spectrum disorder in children from age 2 through age 6, including the treatment known as applied behavior analysis (ABA). Among other things, subsection F as written specifically exempts "plans issued in the individual market or small group markets to employers with 50 or fewer employees...." (emphasis added). Further, subsection L specifically exempts a Qualified Health Plan (QHP) from providing coverage for specific benefits that exceed essential health benefits (i.e., ABA) in the SHOP Exchange.

The Bureau of Insurance (Bureau) has been approached by several carriers who have asked for advice concerning this provision's applicability to health plans that will be issued in the small group market on or after January 1, 2016, when the definition of "small employer" increases from a maximum of 50 employees to 100 employees pursuant to § 38.2-3431. This issue is further complicated by guaranteed availability requirements.

Section 38.2-3432.2 A 2 provides:

All products that are approved for sale in the small group market that the health insurance issuer is actively marketing must be offered to all small employers, and the health insurance issuer must accept any employer that applies for any of those products.

While the plain language of the autism mandate applies only to health plans sold to employers with more than 50 employees, the guaranteed availability requirements of the Code require that any plan approved for sale and actively marketed must be offered to all small employers. Therefore, unless and until clarifying language is adopted by the Virginia General Assembly, the Bureau will expect carriers to provide autism spectrum disorder coverage to all employers in the small group market on or after January 1, 2016. Further, carriers will not be able to renew current plans on or after January 1, 2016 that do not provide coverage as stated in this letter, unless an exception applies.

A plan filed as a QHP for use on the SHOP Exchange may apply the exemption contained in subsection L of § 38.2-3418.17. Related forms may contain variable language showing inclusion or exclusion of the ABA benefit for QHPs.

Questions relating to this matter should be referred to Julie Blauvelt, Insurance Policy Advisor, Bureau of Insurance, Life and Health Division, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9865, or email julie.blauvelt@scc.virginia.gov.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

Bureau of Insurance

February 5, 2015

Administrative Letter 2015-02

To: All Carriers Licensed to Market Credit Life Insurance or Credit Accident and Sickness Insurance in Virginia

Re: Credit Insurance Experience Exhibits

§ 38.2-3730 of the Code of Virginia

In accordance with § 38.2-3730 B of the Code of Virginia, adjustments to the prima facie rates applicable to credit life and credit accident and sickness insurance for the triennium commencing January 1, 2016 will be established and published later this year.

This letter serves as a reminder to all carriers licensed to write either or both of these coverages that the Credit Insurance Experience Exhibit (CIEE) for the 2014 reporting year, from which information will be obtained to properly calculate these rates, must be submitted in accordance with Virginia Code § 38.2-3730 A, no later than April 1, 2015.

In order to expedite the review process, we are requesting that ALL carriers complete the attached questionnaire. This questionnaire will enable the Bureau of Insurance (the Bureau) to identify carriers who have Virginia experience to report on the CIEE from those who do not have any Virginia experience to report. Carriers who have experience to report must answer all questions and submit the questionnaire to the Life and Health Forms and Rates Section of the Bureau. Because of the time constraints under which the rate calculation must be completed, it is imperative that carriers submit complete and accurate CIEEs on or before April 1, 2015. Please note that carriers with no experience to report are not required to answer questions 1-9 on the questionnaire, however, all carriers must return the questionnaire to the Bureau with the company's name, NAIC # and contact information completed.

Attached to this administrative letter are examples of some of the problems identified with CIEE filings in previous years. In some instances, although information was correct, an explanation was necessary to properly evaluate the

information. Carriers are hereby directed to review the attachment to ensure that similar problems do not recur this year. Please note that the CIEE must be filed on a direct basis, i.e. before taking into account reinsurance ceded.

We strongly encourage all carriers to electronically submit the questionnaires and the completed CIEEs, if required, to the Life and Health Forms and Rates Section via the Company Filing Portal. To access the questionnaire and the portal, go to <http://www.scc.virginia.gov/boi/co/miscforms.aspx>, and scroll down to "Credit Insurance Experience Exhibit." You will note that instructions are provided on the Bureau's website for submitting the documents through the portal.

Please contact the Bureau with any questions or requests for clarification. Questions or requests for clarification regarding the filing of required documents should be directed to Amanda McCauley, telephone (804) 371-0034, or email amanda.mccauley@scc.virginia.gov.

Questions or requests for clarification regarding the use of the portal should be directed to Trish Todd, telephone (804) 371-9195, or email trish.todd@scc.virginia.gov.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

The following are examples of problems identified in filings of the Credit Insurance Experience Exhibits (CIEEs) in previous reporting years. Companies are directed to review the information below to ensure that similar problems do not recur in their 2014 CIEEs. Any of the following situations legitimately applicable to a 2014 CIEE should include an appropriate explanation in the attached questionnaire.

- Wrong state submitted, state not indicated, or Virginia experience not separated. The Bureau received a number of exhibits in which a section was missing, the wrong state or year was submitted, or Virginia experience was not provided separately, i.e. Grand Totals.
- Prima facie premium not listed. The prima facie premium is needed to evaluate the rates. Each company should explicitly state the prima facie premium on the appropriate exhibit line, even if it is the same as earned premium.
- Prima facie premiums greater than earned premiums. While this may not be a problem, our experience is that most companies charge the maximum rate allowed. This may be indicative of a miscalculation, especially on MOB business.
- Earned premiums greater than prima facie premium. For MOB business, this may be indicative of a miscalculation. Such premiums violate statutes unless the premium rates have been approved. If the premium rates have been approved, we ask that reporting carriers provide the Bureau with the approval date(s) to facilitate our analysis.

- Changes in the reserves reported from the end of one reporting year to the beginning of the subsequent reporting year. This can cause previously charged premium and claims to disappear. It can also cause claims without corresponding premium and vice versa. Restatement of opening reserves merely results in delay and unnecessary expense for the Bureau and, in light of the purpose of these CIEEs, companies should ensure that opening reserves (at the beginning of the year) are equal to closing reserves (at the end of the previous year).

- Claim reserve errors. These cause inaccurate incurred claims and may also indicate inadequate reserves for the product line.

- Premium reserve errors. These cause inaccurate premium reserve calculations.

- Assumption reinsurance transactions. If any business is transferred by assumption reinsurance, include a cover letter identifying the companies involved and the reserve amounts impacted by the transaction.

- Company Name Changes or Mergers. If the reporting company has changed its name and/or has been involved in a merger, full details should be provided to enable the Bureau of Insurance to appropriately combine experience for the past three years.

- Calculation of Earned Premium at Prima Facie Rates. Prima facie premium must be calculated using the prima facie rates approved and published by the Bureau effective January 1, 2016. Approval by the Bureau to charge alternate rates or use alternative rate structures does not constitute a change to the published prima facie rates, and these alternative rates or rates structures should not be used in calculating earned premium at prima facie rates.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load for Mattaponi River

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a watershed plan for the Mattaponi River. The following stream segments are listed on the § 303(d) TMDL Priority List and Report as impaired for the recreation use due to exceedances of the state's water quality standards for bacteria.

General Notices/Errata

Stream Name	Location	Bacteria Impairment Length (miles)	Upstream Limit	Downstream Limit
Brock Run	Spotsylvania County	2.56	Aunt Sarah Spring Creek	Ni River
Chapel Creek	King and Queen County	4.44	Beaver Branch	Mattaponi River
Doctors Creek	Caroline County	2.32	Tanyard Swamp	Maracossic Creek
Glady Run	Spotsylvania County	9.30	headwaters	Po River
Maracossic Creek	Caroline and King and Queen Counties	4.21	Beverly Run	Mattaponi River
Mat River	Spotsylvania County	2.30	~0.3 mi upstream from Route 647	Ta River
Matta River	Spotsylvania and Caroline Counties	11.89	~0.5 mi upstream from Route 646	Poni River
Mattaponi River	Caroline County	3.20	unnamed tributary draining from Goose Pond	Polecat Creek
Motto River	Caroline County	1.80	~0.4 mi upstream from Route 1	~0.2 mi downstream from I-95.
Po River	Spotsylvania and Caroline Counties	7.21	~2.7 mi upstream from Route 1	Ni River
Polecat Creek	Caroline County	5.31	headwaters	Stevens Mill Run
Poni River	Caroline County	3.21	~0.7 mi upstream from Route 606	Matta River
Reedy Creek	Caroline County	9.39	headwaters	Route 301
		3.30	Route 301	Reedy Millpond
Root Swamp	King and Queen County	7.83	headwaters	Beverly Run

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law requires the DEQ to develop total maximum daily loads (TMDLs) for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report, and Virginia state law requires implementation plans for areas with TMDLs. A component of a TMDL is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of WLAs associated with this watershed plan.

The first public meeting on the development of the watershed plan to address the bacteria impairments for these segments will be held Wednesday, March 18, 2015, at 6 p.m., Bowling Green Town Hall, Rappahannock Reception Room, 117 Butler Street, Bowling Green, VA 22427.

In case of inclement weather, the alternate meeting date is Monday, March 23, 2015, at 6 p.m., Bowling Green Town Hall, Rappahannock Reception Room, 117 Butler Street, Bowling Green, VA 22427.

Please note that the alternate meeting date will be used if the offices of Caroline County are closed due to inclement weather on March 18, 2015. Caroline County's website is www.visitcaroline.com.

The public comment period will begin on March 18, 2015, and will end on Friday, April 17, 2015. An advisory committee to assist in development of this watershed plan has been scheduled to convene on Wednesday, March 4, 2015.

Information on the development of the watershed plan for the impairments is available upon request. Questions or information requests should be addressed to the DEQ contact person listed below. Please note that all written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Rebecca Shoemaker, Virginia Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3807, or email rebecca.shoemaker@deq.virginia.gov.

Water Quality Study of Moores Creek, Meadow Creek, Schenks Branch, and Lodge Creek

Committee meeting: A Technical Advisory Committee meeting that is open to the public will be held Thursday, March 5, 2015, at 9 a.m. at the Thomas Jefferson Planning District Commission's Water Street Center at 407 East Water Street, Charlottesville, VA. This meeting will be open to the public and all are welcome. In the case of inclement weather, the meeting will be postponed until Friday, March 6, 2015, at 9 a.m. For more information, please contact Tara Sieber at tara.sieber@deq.virginia.gov or telephone (540) 574-7870.

Purpose of notice: The Department of Environmental Quality (DEQ) and its contractors, Virginia Tech's Biological Systems Engineering Department, will discuss population data for the development of a water quality study known as a total maximum daily load (TMDL) for Moores Creek, Lodge Creek, Meadow Creek, and Schenks Branch. This is an opportunity for local residents to share information about the area and its local streams.

Meeting description: The Technical Advisory Committee will meet to discuss and review permit details, discuss possibilities of cross-program collaboration, and review next steps. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

Description of study: These streams do not host a healthy and diverse population of aquatic life and subsequently was listed as impaired for the "general benthic (aquatic life)" water quality standard. This water quality study (TMDL) will review all data collected and determine the cause of the benthic impairment through a weight of evidence approach. Reductions and a TMDL for the cause of the impairment will be developed.

Stream	County	Impairment
Moores Creek	Charlottesville/ Albemarle	Aquatic Life
Lodge Creek	Charlottesville/ Albemarle	Aquatic Life
Meadow Creek	Charlottesville/ Albemarle	Aquatic Life
Schenks Branch	Charlottesville	Aquatic Life

How to participate: The meetings of the Technical Advisory Committee are open to the public and all interested parties are welcome. Written comments are always accepted. For more information or to submit written comments, please contact Tara Sieber, Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7870, FAX (540) 574-7878, or email tara.sieber@deq.virginia.gov.

Total Maximum Daily Loads for Wolf Creek, Laurel Creek, and Dry Run

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of total maximum daily loads (TMDLs) for Wolf Creek, Laurel Creek, and Dry Run in Bland, Giles, and Tazewell Counties. These streams are listed on the 2012 § 303(d) TMDL Priority List and Report as impaired

General Notices/Errata

due to violations of the state's water quality standards for bacteria.

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

The impaired segments include: 28.7 miles of Wolf Creek from the Little Creek confluence in Tazewell County downstream to the confluence with the New River in Giles County; 1.60 miles of Laurel Creek in Bland County extending from the confluence of Dry Fork downstream to the confluence with Wolf Creek; and 5.0 miles of Dry Fork in Bland County extending from East River Mountain to the West Virginia state line downstream to North Gap, excluding the headwaters.

The final public meeting on the development of the TMDL to address the bacteria impairments for these segments will be held on March 26, 2015, from 6 p.m. to 8 p.m. at the Bland County High School, Room 111A, 176 Eagles Road, Rocky Gap, VA. In the event of inclement weather the meeting will be held at the same location on March 31, 2015.

The public comment period will begin on March 26, 2015, and end on April 27, 2015.

A component of a TMDL is the wasteload allocations (WLAs); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDLs associated WLAs. Information on the development of the TMDLs for these impairments is available upon request. Questions or information requests should be addressed to one of the following agency contacts:

Martha Chapman, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, telephone (276) 676-4800, or email martha.chapman@deq.virginia.gov.

Mary Dail, Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, or email mary.dail@deq.virginia.gov.

All written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to either agency contact listed above.

VIRGINIA LOTTERY Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on February 18, 2015. The orders may be viewed at the

Virginia Lottery, 900 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, Virginia.

Director's Order Number Eleven (15)

Coastal Investments Retailer Incentive Program Promotions - Virginia Lottery Program Requirements -

Program 1: "Stretch Your Scratch Goal"

Program 2: "\$100,000 Home Changer Free Item With Purchase"

Program 3: "Convenience Cash Promotion"

(This Director's Order becomes effective on April 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program promotion, unless otherwise extended by the Director)

Director's Order Number Fourteen (15)

"Spring Scratch Sales Contest Retailer Incentive Promotion" - Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on April 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Twenty-Five (15)

Virginia's Instant Game Lottery 1531 "Triple 777" Final Rules For Game Operation (effective February 17, 2015)

STATE WATER CONTROL BOARD

Proposed Consent Order for Bath County Service Authority

An enforcement action has been proposed for Bath County Service Authority (BCSA) for violations in Bath County, Virginia. The State Water Control Board proposes to issue an amendment to the consent order to BCSA to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Tiffany Severs will accept comments by email at tiffany.severs@deq.virginia.gov, FAX at (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, from March 9, 2015, through April 9, 2015.

Proposed Consent Special Order for the Town of Virgilina

An enforcement action is being noticed for the Town of Virgilina for violations in Halifax County, Virginia. The special order by consent addresses and resolves violations of environmental law and regulations. A description of the

action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Jerry Ford, Jr. will accept comments by email at jerry.ford@deq.virginia.gov, or postal mail at Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, from March 9, 2015, through April 8, 2015.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/connect/commonwealth-calendar>.

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

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

