VIRGINIA REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

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

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

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

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

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE *VIRGINIA REGISTER*

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017,** refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

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

Members of the Virginia Code Commission: **John S. Edwards, Chair; James A. Leftwich, Jr., Vice-Chair; Ward L. Armstrong; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade; Wren M. Williams.**

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

PUBLICATION SCHEDULE AND DEADLINES

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

August 2023 through September 2024

Volume: Issue	Material Submitted By Noon*	Will Be Published On
40:1	August 9, 2023	August 28, 2023
40:2	August 23, 2023	September 11, 2023
40:3	September 6, 2023	September 25, 2023
40:4	September 20, 2023	October 9, 2023
40:5	October 4, 2023	October 23, 2023
40:6	October 18, 2023	November 6, 2023
40:7	November 1, 2023	November 20, 2023
40:8	November 14, 2023 **(Tuesday)**	December 4, 2023
40:9	November 29, 2023	December 18, 2023
40:10	December 13, 2023	January 1, 2024
40:11	December 27, 2023	January 15, 2024
40:12	January 10, 2024	January 29, 2024
40:13	January 24, 2024	February 12, 2024
40:14	February 7, 2024	February 26, 2024
40:15	February 21, 2024	March 11, 2024
40:16	March 6, 2024	March 25, 2024
40:17	March 20, 2024	April 8, 2024
40:18	April 3, 2024	April 22, 2024
40:19	April 17, 2024	May 6, 2024
40:20	May 1, 2024	May 20, 2024
40:21	May 15, 2024	June 3, 2024
40:22	May 29, 2024	June 17, 2024
40:23	June 12, 2024	July 1, 2024
40:24	June 26, 2024	July 15, 2024
40:25	July 10, 2024	July 29, 2024
40:26	July 24, 2024	August 12, 2024
41:1	August 7, 2024	August 26, 2024
41:2	August 21, 2024	September 9, 2024

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Initial Agency Notice

Title of Regulation: **9VAC25-31. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.**

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Name of Petitioner: Andy Cortez.

Nature of Petitioner's Request: On July 12, 2023, the Department of Environmental Quality received Andy Cortez's petition to the State Water Control Board to regulate commercial fishing vessel pump water as a point source pollutant due to vacuum pump water containing dissolved organic matter, including nitrogen, phosphorous, suspended solids, and high biochemical oxygen demand (BOD). The petitioner asserts that the discharge is not in compliance with § 62.1-44.2 or 62.1-44.5.9 A 1 3 of the Code of Virginia or 9VAC25-31-50 A 1 or A 2 and formally requests that the board amend the existing Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations (9VAC25-31) or develop a new regulation.

Agency Plan for Disposition of Request: A 21-day public comment period is being announced in the Virginia Register of Regulations. Upon completion of the public comment period, the State Water Control Board will consider the petition at a future meeting and decide whether or not to move forward with the rulemaking.

Public Comment Deadline: September 4, 2023.

Agency Contact: Allan Brockenbrough, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 836-2321, or email allan.brockenbrough@deq.virginia.gov.

VA.R. Doc. No. PFR23-38; Filed July 21, 2023, 1:03 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Agency Decision

Title of Regulation: **18VAC115-80. Regulations Governing the Registration of Qualified Mental Health Professionals.**

Statutory Authority: §§ 54.1-2400, 54.1-3500, and 54.1-3505 of the Code of Virginia.

Name of Petitioner: Kathy Johnson.

Nature of Petitioner's Request: The petitioner requests that qualified mental health professionals (QMHPs) who are dually registered to work with both children and adults; who have been exempted from certain requirements; who hold a master's degree or higher in social work, human services, or psychology; and who have more than 10 years professional work experience in mental or behavioral health should be considered qualified supervisors for qualified mental health professional trainees.

The petitioner also requests that those who meet the requirements in this petition should be able to practice independently.

Agency Decision: Take no action.

Statement of Reason for Decision: The Board of Counseling considered this petition at its July 21, 2023, meeting. The board decided to take no action on this petition as the board is currently in the process of reviewing the role and requirements of QMPHs, including holding of a regulatory advisory panel in March. The board wishes to take action all at once on revisions of the regulation as opposed to addressing individual requirements separately. The board will consider the petitioner's requests as it continues the process of identifying all necessary changes for the practice group.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. PFR23-26; Filed July 21, 2023, 1:16 p.m.

Agency Decision

Title of Regulation: **18VAC115-80. Regulations Governing the Registration of Qualified Mental Health Professionals.**

Statutory Authority: §§ 54.1-2400, 54.1-3500, and 54.1-3505 of the Code of Virginia.

Name of Petitioner: Kathy Johnson.

Nature of Petitioner's Request: The petitioner requests that the Board of Counseling license qualified mental health professionals (QMHPs) as licensed mental health professionals. The petitioner states that QMHPs are highly trained in the behavioral aspect of mental health and many hold master's degrees or higher.

Agency Decision: Request denied.

Statement of Reason for Decision: The Board of Counseling considered this petition at its July 21, 2023, meeting. The board decided to take no action on the petition as the requested action is outside of the board's jurisdiction. The General Assembly determines whether a practice group is licensed, certified, or registered.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. PFR23-25; Filed July 21, 2023, 1:17 p.m.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **2VAC5-115, Regulations for Determining Whether a Facility Meets the Purpose of Finding Permanent Adoptive Homes for Animals**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

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

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **2VAC5-336, Regulations for Enforcement of the Virginia Tree and Crop Pests Law - Spotted Lanternfly Quarantine**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

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

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **18VAC25-11, Public Participation Guidelines,** and **18VAC25-21, Regulations of the Virginia Auctioneers Board**. The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

Contact Information: Bonnie Davis, Administrator, Auctioneers Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-4857.

BOARD OF OPTOMETRY

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **18VAC105-20, Regulations Governing the Practice of Optometry**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 13, 2023.

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

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

BOARD OF COUNSELING

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review **18VAC115-11, Public Participation Guidelines,** and **18VAC115-40, Regulations Governing the Certification of Rehabilitation Providers**. The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

Contact Information: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406.

REAL ESTATE APPRAISER BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review **18VAC130-11, Public Participation Guidelines; 18VAC130-20, Real Estate Appraiser Board Rules and Regulations;** and **18VAC130-30, Appraisal Management Company Regulations**. The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

Contact Information: Stephen Kirschner, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552.

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

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact

review: **18VAC160-11, Public Participation Guidelines**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

Contact Information: Tanya Pettus, Administrator, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595.

TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review **19VAC30-11, Public Participation Guidelines,** and **19VAC30-220, Virginia Methamphetamine Precursor Information System**. The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 15, 2023.

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

Contact Information: Keenon Hook, Law-Enforcement Manager III, Department of State Police, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-4606.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-880, Child Support Enforcement Program**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins August 14, 2023, and ends September 4, 2023.

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

Contact Information: Thomasine Stewart, Legislative Liaison, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 802-4783.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **24VAC30-151, Land Use Permit Regulations**.

The Notice of Intended Regulatory Action to amend 24VAC30-151, which is published in this issue of the Virginia Register, serves as the agency notice of announcement.

Contact Information: JoAnne P. Maxwell, Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **24VAC30-200, Vegetation Control Regulations on State Rights-of-Way**.

The Notice of Intended Regulatory Action to amend 24VAC30-200, which is published in this issue of the Virginia Register, serves as the agency notice of announcement.

Contact Information: JoAnne P. Maxwell, Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Criminal Justice Services Board intends to consider promulgating **6VAC20-300, Rules Relating to the Use of Military Property and Equipment for Law Enforcement Agencies and Departments**. The purpose of the proposed action is to meet the mandate of Chapter 37 of the 2020 Acts of Assembly, Special Session I, to establish and administer a waiver process for law-enforcement agencies or departments to use certain military property and equipment.

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

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public Comment Deadline: September 13, 2023.

Agency Contact: Kristi Shalton, Law-Enforcement Program Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, FAX (804) 786-0410, or email kristi.shalton@dcjs.virginia.gov.

VA.R. Doc. No. R22-6818; Filed July 25, 2023, 6:19 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF LONG-TERM CARE ADMINISTRATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Long-Term Care Administrators intends to consider amending **18VAC95-20, Regulations Governing the Practice of Nursing Home Administrators,** and **18VAC95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The purpose of the proposed action is to comply with Executive Order 19 (2022), which requires all executive agencies to reduce regulatory requirements by 25%. The changes being considered in this action include the following: (i) create a pathway for inactive licensure for nursing home administrators and assisted living facility administrators; (ii) update continuing education requirements to reduce unnecessary requirements, including a consideration of potential reduction of hours; (iii) eliminate requirements for attestations of compliance with existing laws from application and renewal requirements; (iv) remove requirements for all documents in an application for licensure to be submitted at the same time; and (v) remove requirements to obtain new preceptors within 60 days upon interruption of a preceptor program.

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 Comment Deadline: September 13, 2023.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email corie.wolf@dhp.virginia.gov.

VA.R. Doc. No. R23-7641; Filed July 21, 2023, 8:38 a.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commonwealth Transportation Board (CTB) intends to consider amending **24VAC30-151, Land Use Permit Regulations**. The purpose of the proposed action is to undertake a comprehensive review of the regulation, which permits work activities on the rights-of-way of state highways for construction, utility installations, entrances, events, and other activities. The intent of this action is to remove redundant or obsolete language, with the goal of identifying opportunities for regulatory reduction and streamlining in accordance with Executive Order 19 (2022).

In addition, pursuant to § 2.2-4007.1 of the Code of Virginia, the CTB is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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

Statutory Authority: § 33.2-210 of the Code of Virginia.

Public Comment Deadline: September 13, 2023.

Agency Contact: JoAnne P. Maxwell, Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

VA.R. Doc. No. R23-7620; Filed July 25, 2023, 7:20 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commonwealth Transportation Board (CTB) intends to consider amending **24VAC30-200, Vegetation Control Regulations on State Rights of Way**. The purpose of the proposed action is to undertake a comprehensive review of the regulation, which enables the Virginia Department of Transportation to permit vegetation removal, set forth the standards for which vegetation removal shall be permissible, and analyze proposed vegetation removal applications in order to mitigate potential adverse impacts on the aesthetics and health of vegetation and state-controlled highways. The intent of this action is to remove redundant or obsolete language, with the goal of identifying opportunities for regulatory reduction and streamlining in accordance with Executive Order 19 (2022).

In addition, pursuant to § 2.2-4007.1 of the Code of Virginia, the CTB is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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

Statutory Authority: § 33.2-210 of the Code of Virginia.

Public Comment Deadline: September 13, 2023.

Agency Contact: JoAnne P. Maxwell, Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

VA.R. Doc. No. R23-7621; Filed July 25, 2023, 7:21 a.m.

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Fast-Track Regulation

Title of Regulation: **1VAC20-60. Election Administration (adding 1VAC20-60-90).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: September 13, 2023.

Effective Date: September 28, 2023.

Agency Contact: Ashley Coles, Agency Regulatory Coordinator, Department of Elections, Washington Building, 1100 Bank Street, First Floor, Richmond, VA 23219, telephone (804) 864-8933, or email ashley.coles@elections.virginia.gov.

Basis: Pursuant to § 24.2-103 A of the Code of Virginia, the State Board of Elections is required to make rules and regulations, issue instructions, and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws.

Purpose: Upon receipt of a removal petition, the general registrar must review the petition and determine its sufficiency; must certify the petition within 10 business days and promptly file such certification with the clerk of the circuit court; and must state the number of signatures required, the number of signatures on the petition, the number of valid signatures, along with any signatures found to be invalid, and any material omissions from the petition.

In order to ensure uniform standards are applied for the review of material omissions on petitions and ensure due process for officers that may be removed, the State Board of Elections must promulgate a regulation indicating material omissions on a petition for the removal of an officer. This protects the welfare of citizens by ensuring their elected representatives are only petitioned to be removed from office through uniform and consistent standards.

Rationale for Using Fast-Track Rulemaking Process: This regulation is expected to be noncontroversial because it is consistent with the requirements for material omissions on referendum petitions (1VAC20-60-20) and material omissions for candidate petitions (1VAC20-50-20). Chapters 663 and 664 of the 2023 Acts of Assembly set out the procedures by which an elected officer, or officer who has been appointed to fill an elective office, may be removed from office. The chapters require, among other provisions, that the State Board of Elections certification of a removal petition state (i) the number of signatures required, (ii) the number of signatures on the petition, (iii) the number of valid signatures, along with any signatures found to be invalid, and (iv) any material omissions from the petition. As a result, the State Board of Elections must adopt a regulation outlining what constitutes a material omission on a removal petition.

Substance: Chapters 663 and 664 of the 2023 Acts of Assembly require general registrars to indicate what the material omissions are on an officer removal petition. This regulatory action creates 1VAC20-60-90, addressing material omissions and listing the specific items that qualify as material omissions on a removal petition and specific items that are not material omissions on a removal petition.

Issues: The advantages to the public, general registrars, and the Commonwealth are uniform standards that will be applied regarding petition signatures on a petition of the removal of an officer and this regulatory action ensures consistency. Additionally, the public will have a form already created for the removal petition. There are no known disadvantages to the public or the Commonwealth.

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 § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. As a result of the Chapters 663[2] and 664[3] 2023 Acts of Assembly (legislation), the State Board of Elections (Board) proposes to establish standards outlining what constitutes material and nonmaterial omissions on a petition for removal of an elected officer.

Background. The legislation sets out the procedures by which an elected officer, or an officer who has been appointed to fill an elective office, may be removed from office. This legislation applies to all elected or appointed Commonwealth, constitutional, and local officers, except officers for whose removal the Constitution of Virginia specifically provides.[4]

As it pertains to the Board and local general registrars, the legislation requires that (i) the general registrar review a petition for removal on a form prescribed by the Board and determine its sufficiency; (ii) if sufficient, the general registrar certify the petition within 10 business days and promptly file

such certification with the clerk of the circuit court; and (iii) the certification state the number of signatures required, the number of signatures on the petition, the number of valid signatures, along with any signatures found to be invalid and any material omissions from the petition.

Consequently, the Board proposes to establish a form in the regulation and descriptions of material and nonmaterial omissions. Omissions that would be considered material include missing name (or some variation of the name) of the officer, failing to identify the jurisdiction in which the officer serves, missing signatures, etc. Omissions that would not be considered material include using an older form, missing a birthday, or placing signature on the print line and printing the name on signature line, etc. According to the Board, the amendments in this action are consistent with the requirements for material omissions on referendum petitions (1VAC20-60-20) and material omissions for candidate petitions (1VAC20-50-20).

If the petition meets all requirements, the general registrar certifies to the clerk of the court whether the required minimum number of signatures has also been met, which on a removal petition is 10% of the votes cast in the last election for that office. However, the general registrars do not review the petition for content or merit, but instead only for form and procedure and whether it meets the requirements as laid out by law and this regulation. If certified to the court, the Commonwealth's Attorney reviews the content and merits and decides on whether to pursue the petition or not.

Estimated Benefits and Costs. The amendments outline what constitutes material and nonmaterial omissions on a petition for the removal of an officer and provide guidance to the general registrars as to how to evaluate a petition for certification. As such, the proposal should help ensure the information provided to general registrars, circuit courts, and Commonwealth Attorneys are in uniform and consistent formats and contain the same type of information. These changes should help avoid potential administrative cost due to possible errors and the potential for Board staff to receive unnecessary questions from general registrars. Without the proposed standards, registrars may not uniformly review petition signatures or may have many questions. Additionally, signatures on a petition for the removal of an officer may be qualified or disqualified for different reasons which would directly impact whether the required minimum 10% of the votes is met.

Businesses and Other Entities Affected. All elected officials and all officials appointed to fill an elective office, except officers for whose removal the Constitution of Virginia specifically provides, are subject to a removal petition. However, removal petitions are filed with the circuit courts, not with the Board or the agency. Therefore, there is no estimate for how many removal petitions are filed. Additionally, the proposed regulation applies to petitioners and petition circulators. No affected entity appears to be disproportionately affected.

The Code of Virginia requires the DPB to assess whether an adverse impact may result from the proposed regulation.[5] An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted, the proposal would mainly help provide guidance and consistency in evaluating and certifying an accurate petition count. Thus, no adverse impact is indicated.

Small Businesses[6] Affected.[7] The proposed regulation does not appear to adversely affect small businesses.

Localities[8] Affected.[9] All circuit courts in Virginia that receive a certification from the general registrar regarding the number of signatures on an officer removal petition and all general registrars required to review an officer removal petition would be affected. The proposed regulation does not introduce costs for local governments.

Projected Impact on Employment. The proposed regulation does not appear to affect employment.

Effects on the Use and Value of Private Property. No effect on the use and value of private property or real estate development costs is expected.

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[1]Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2]https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0663&231+ful+CHAP0663

[3]https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0664&231+ful+CHAP0664

[4]See § 24.2-230 of the Code of Virginia.

[5]Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[6]Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[7]If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses,

and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[8]"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[9]Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The Department of Elections concurs with the Department of Planning and Budget's economic impact analysis.

Summary:

The amendments add (i) a new section that outlines what constitutes a material or nonmaterial omission on a petition for the removal of an officer; and (ii) a form to submit a petition for removal of an officer to the State Board of Elections.

1VAC20-60-90. Material omissions from officer removal petitions and petition signature qualifications.

A. Pursuant to the requirements of §§ 24.2-233 and 24.2-235 of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material, and any petition containing such omissions shall be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;

2. The petition does not have the name, or some variation of the name, and the office of the officer to be removed on the front of the form;

3. The petition fails to identify the applicable jurisdiction in which the officer serves;

4. The petition does not have the specific reasons or grounds for removal on the form;

5. The circulator has not signed the petition affidavit and provided the circulator's current address;

6. The circulator is a minor or a felon whose voting rights have not been restored;

7. The circulator has not signed the petition the circulator circulated in the presence of a notary;

8. The circulator has not had a notary sign the affidavit for each petition submitted;

9. A person other than the circulator signed the petition affidavit;

10. The notary has not affixed a photographically reproducible seal;

11. The notary has not included the notary's registration number and commission expiration date; or

12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material, and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;

2. The signer is also the circulator of the petition;

3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;

4. The signer did not sign the petition; or

5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);

2. The name of the officer to be removed and office title are omitted from the back of the petition;

3. The circulator has not provided the circulator's year of birth in the affidavit;

4. The signer omits the signer's first name, provided the signer provides a combination of the signer's first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;

5. The signer provided a derivative of the signer's legal name as the signer's first or middle name (e.g., "Bob" instead of "Robert");

6. The signer prints the signer's name on the "Print" line and prints the signer's name on the "Sign" line;

7. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page; or

8. The signer fails to provide the year when signing the petition.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;

2. The signer provides the signer's name; and

3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provides an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (1VAC20-60)

Commonwealth of Virginia Petition of Qualified Voters For Referendum, SBE-684.1(1) (rev. 5/2011)

Request for a Risk-Limiting Audit, SBE 671.2(D) (rev. 8/2022)

ELECT 233 Petition for the Removal of an Officer (rev. 5/2023)

VA.R. Doc. No. R23-7597; Filed July 25, 2023, 11:42 a.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Emergency Regulation

Title of Regulation: **6VAC20-300. Rules Relating to the Use of Military Property and Equipment for Law-Enforcement Agencies and Departments (adding 6VAC20-300-10, 6VAC20-300-20).**

Statutory Authority: § 9.1-102 of the Code of Virginia.

Effective Dates: September 15, 2023, through March 14, 2025.

Agency Contact: Kristi Shalton, Law-Enforcement Program Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, FAX (804) 786-0410, or email kristi.shalton@dcjs.virginia.gov.

Preamble:

Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which 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, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Pursuant to Chapter 37 of the 2020 Acts of Assembly, Special Session I, the amendments establish and administer a waiver process for law-enforcement agencies or departments to use certain military property and equipment.

Chapter 300

Rules Relating to the Use of Military Property and Equipment for Law-Enforcement Agencies and Departments

6VAC20-300-10. Establishment of a waiver process.

A. Any law-enforcement agency or department subject to the provisions of § 2.2-5515, 15.2-1721.1, or 52-11.3 of the Code of Virginia in possession of equipment prohibited by § 2.2-5515, 15.2-1721.1, or 52-11.3 of the Code of Virginia prior to March 1, 2021, must request a waiver to continue the use of such prohibited equipment.

B. Law-enforcement agencies or departments shall file with the Department of Criminal Justice Services (department) a completed application for such waiver on the form and in the manner provided by the department.

C. The Criminal Justice Services Board (board) shall consider each waiver request. Law-enforcement agencies or departments may appear before the board in support of the request. Law-enforcement agencies or departments may utilize qualifying equipment while the application for waiver is pending.

D. Any waivers granted by the board shall be published by the department on the department's website.

6VAC20-300-20. Failure to comply with rules relating to waiver process.

Law-enforcement agencies or departments that do not request or receive a waiver may not utilize any equipment prohibited by §§ 2.2-5515, 15.2-1721.1, and 52-11.3 of the Code of Virginia.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS

Military Surplus and Other Regulated Police Equipment Waiver, DCJS Form (rev. 4/2021)

VA.R. Doc. No. R22-6818; Filed July 25, 2023, 6:19 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Proposed Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 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.) and Chapters 24 (§ 62.1-242 et seq.) and 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 § 2.2-4007.01 of the Code of Virginia; (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 § 2.2-4007.03 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC25-880. General VPDES Permit for Discharges of Stormwater from Construction Activities (amending 9VAC25-880-1 through 9VAC25-880-70).**

Statutory Authority: § 62.1-44.15:25 of the Code of Virginia.

Public Hearing Information:

September 7, 2023 - 1 p.m. - Department of Environmental Quality, Piedmont Regional Office, Training Room, 4949-A Cox Road, Glen Allen, VA 23060

Public Comment Deadline: October 13, 2023.

Agency Contact: Scott Van Der Hyde, Regulatory Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 659-1541, or email scott.vanderhyde@deq.virginia.gov.

Background: The General VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880) authorizes the discharge of stormwater from construction activities equal to or greater than one acre of land disturbance or less than one acre of land disturbance within a larger common plan of development or sale that results in one acre or more of land disturbance. This regulatory action is needed for existing and new construction activities to be covered under this Virginia Pollutant Discharge Elimination System (VPDES) general permit, which expires on June 30, 2024, and must be reissued in order to make coverage available for discharges of stormwater from construction activities after June 30, 2024.

Summary:

The proposed regulatory action authorizes discharges of stormwater from large and small construction activities, establishes the best management practices and control measures necessary to control such discharges, and updates the effective dates of the five-year general permit term to July 1, 2024, to June 30, 2029. The proposed amendments update the reference to the Code of Federal Regulations to July 1, 2022, and update citations and references to be consistent with the new Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024; change the term "board" to "department" throughout the regulation in response to Chapter 356 of the 2022 Acts of Assembly; clarify language in the regulation and general permit; update provisions to be consistent with other recently reissued VPDES general permits, including provisions for authorized nonstormwater discharges and a requirement to include a State Corporation Commission entity identification number when reporting; amend and add provisions to be consistent with the 2022 U.S. Environmental Protection Agency Construction General Permit (effective February 17, 2022), such as (i) requiring the map of the construction site to identify locations of any construction support activities, including areas where polymers, flocculants, or other stormwater treatment chemical are used or stored; (ii) clarifying how an erosion and sediment control plan shall be implemented to maximize stormwater infiltration, minimize soil compaction, and preserve topsoil; (iii) implementing new requirements for controlling construction dewatering discharges to impaired waters or exceptional waters; and (iv) specifying what an operator must do in the event that the same stormwater control requires repeated repair. Additional proposed amendments (i) allow for reporting of support activities in a modified registration statement; (ii) change the timeline for submitting a completed registration statement to 90 days prior to the expiration date of the general permit; (iii) in compliance with § 62.1-44.15:26.1 of the Code of Virginia, change the timeline for termination of authorization to discharge to 90 days after receipt of notice of termination; and (iv) clarify that concrete wash water cannot be disposed of through infiltration or otherwise disposed of on the ground.

9VAC25-880-1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. For the purposes of this chapter, words and terms ~~used in this chapter shall have the meanings~~ that are defined in the Virginia Erosion and Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia)~~, this chapter~~, and ~~9VAC25-870~~ the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), shall have those meanings unless

the context clearly indicates otherwise~~, except as otherwise specified in this section~~. ~~Terms not defined in~~ the ~~Act, this chapter, or 9VAC25-870 shall have~~ the ~~meaning attributed to them in~~ the ~~federal Clean Water Act (33 USC § 1251 et seq.) (CWA). For~~ the ~~purposes of this chapter:~~

"Board" means the State Water Control Board. When used outside the context of the promulgation of regulations, including regulations to establish general permits, "board" means the Department of Environmental Quality.

"Business day" means Monday through Friday excluding state holidays.

"Commencement of land disturbance" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of fill material).

"Construction dewatering" means the act of draining or pumping stormwater or groundwater from building foundations, vaults, and trenches, or other similar points of accumulation, including from sediment basins or similar impoundments for maintenance or decommissioning purposes. Construction dewatering does not include temporary pumparounds associated with instream construction activities.

"Construction site" means the land or water area where any ~~land-disturbing~~ construction activity is physically located or conducted, including any adjacent land used or preserved in connection with the land-disturbing activity. The term "construction site" includes construction support activities located on-site or off-site.

"Construction support activity" means a construction-related activity that specifically supports construction and involves land disturbance or pollutant-generating activities of its own and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas.

"Department" means the Department of Environmental Quality.

"Final stabilization" means that one of the following situations has occurred:

1. All ~~soil-disturbing~~ soil-disturbing activities at the construction site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.

2. For individual lots in residential construction, final stabilization can occur by either:

a. The homebuilder completing ~~final~~ permanent stabilization as specified in subdivision 1 of this definition; or

b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and providing written notification to the homeowner of the need for, and benefits of, ~~final~~ permanent stabilization as specified in subdivision 1 of this definition. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70.

3. For construction ~~projects~~ activities on land used for agricultural purposes, ~~final~~ permanent stabilization may be accomplished by returning the disturbed ~~land~~ area to its preconstruction agricultural use. ~~Areas disturbed~~ Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use shall meet the ~~final~~ permanent stabilization criteria specified in subdivision 1 or 2 of this definition.

"Immediately" means as soon as practicable, but no later than the end of the next business day, following the day when the ~~land-disturbing~~ construction activities have temporarily or permanently ceased. In the context of this general permit, "immediately" is used to define the deadline for initiating stabilization measures.

"Impaired waters" means surface waters identified as impaired on the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report.

"Infeasible" means not technologically possible or not economically practicable and achievable in light of best industry practices.

"Initiation of stabilization activities" means:

1. Prepping the soil for vegetative or nonvegetative stabilization;

2. Applying mulch or other nonvegetative product to the exposed area;

3. Seeding or planting the exposed area;

4. Starting any of the ~~above~~ activities listed in subdivision 1, 2, or 3 of this definition on a portion of the area to be stabilized, but not on the entire area; or

5. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

This list is not exhaustive.

"Measurable storm event" means a rainfall event producing 0.25 inches of rain or greater over 24 hours or snow melt from

a snow event producing 3.25 inches or more of snow within a 24-hour period.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired certificate of competence for Project Inspector for Erosion and Sediment Control and an unexpired certificate of competence for Project Inspector for Stormwater Management, both issued by the department, a Construction General Permit Qualified Personnel Certificate, or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

9VAC25-880-10. Purpose.

This general permit regulation governs stormwater discharges from regulated construction ~~activities. For the purposes of this chapter, these discharges are defined as stormwater discharges associated with large construction activity, and stormwater discharges associated with small construction activity. Stormwater discharges associated with other types of industrial activity shall not have coverage under this general permit. This general permit covers only discharges~~ activity, which includes large construction activity, small construction activity, or construction support activity, through a point source to surface waters or through a municipal or nonmunicipal separate storm sewer system to surface waters. Stormwater discharges associated with regulated industrial activity that originate from a construction ~~activities~~ site that have been completed and the site has undergone final stabilization are not authorized by this general permit.

9VAC25-880-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the United States set forth in the Code of Federal Regulations is referenced and incorporated ~~herein~~ in this chapter, that regulation shall be as it exists and has been published in the July 1, ~~2018~~ 2022, update.

9VAC25-880-20. Effective date of general permit.

This general permit is effective on July 1, ~~2019~~ 2024. The general permit will expire on June 30, ~~2024~~ 2029. This general permit is effective for any covered operator upon compliance with all provisions of 9VAC25-880-30.

9VAC25-880-30. Authorization to discharge.

A. Any operator governed by this general permit is authorized to discharge to surface waters of the Commonwealth of Virginia provided that:

1. The operator submits a complete and accurate registration statement in accordance with 9VAC25-880-50, unless not required, and receives acceptance of the registration by the ~~board~~ department;

2. The operator submits ~~any~~ all permit fees, ~~unless not required~~ including all outstanding permit maintenance fees, in accordance with ~~9VAC25-870-700~~ 9VAC25-875-1290 et seq., unless not required;

3. The operator complies with the applicable requirements of 9VAC25-880-70;

4. The operator obtains approval of:

a. An erosion and sediment control plan from the appropriate Virginia Erosion and Stormwater Management Program (VESMP) authority or Virginia Erosion and Sediment Control Program (VESCP) authority ~~as authorized under the Erosion and Sediment Control Regulations (9VAC25-840)~~, unless the operator receives from the VESCP authority an "agreement in lieu of a plan" as defined in ~~9VAC25-840-10~~ 9VAC25-875-20 and 9VAC25-875-210, respectively, or prepares the erosion and sediment control plan in accordance with ~~annual~~ standards and specifications approved by the department; and

b. Except as specified in 9VAC25-880-70 Part II B 3 b, a stormwater management plan from the appropriate ~~Virginia Stormwater Management Program (VSMP)~~ VESMP authority ~~as authorized under the VSMP Regulation (9VAC25-870)~~, unless the operator receives from the ~~VSMP~~ VESMP authority an "agreement in lieu of a stormwater management plan" as defined in ~~9VAC25-870-10~~ 9VAC25-875-20 or prepares the stormwater management plan in accordance with ~~annual~~ standards and specifications approved by the department; and

5. The ~~board~~ department has not notified the operator that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The ~~board~~ department will notify an operator that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The operator is required to obtain an individual permit in accordance with ~~9VAC25-870-410~~ 9VAC25-875-980 B;

2. The operator is proposing discharges to surface waters specifically named in other board regulations that prohibit such discharges;

3. The discharge causes, may reasonably be expected to cause, or contributes to a violation of water quality standards (9VAC25-260);

4. The discharge violates or would violate the antidegradation policy in the Water Quality Standards (9VAC25-260-30); or

5. The discharge is not consistent with the assumptions and requirements of an applicable TMDL approved prior to the term of this general permit.

C. This general permit also authorizes stormwater discharges from construction support activities ~~(e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas)~~ located on-site or off-site provided that:

1. The support activity is directly related to a construction ~~activity~~ site that is required to have general permit coverage for stormwater discharges ~~of stormwater from construction activities~~;

2. The support activity is not a commercial operation, nor does it serve multiple unrelated construction ~~activities by different operators~~ sites;

3. The support activity does not operate beyond the completion of the last construction activity it supports;

4. The support activity is ~~identified~~ reported in the registration statement at the time of general permit coverage or reported in a modified registration statement once the need for the support activity is known;

5. Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity ~~areas~~; and

6. All applicable, state, federal, and local approvals are obtained for the support activity.

D. ~~Support activities located off site are not required to be covered under this general permit. Discharges of stormwater~~ Stormwater discharges from an off-site construction support ~~activities~~ activity may be authorized under another state or VPDES permit. Where stormwater discharges from an off-site construction support ~~activities~~ activity are not authorized under this general permit, the land area of the off-site construction support activity ~~need~~ shall not be included in determining the total land ~~disturbance acreage of the construction activity seeking general permit coverage~~ area of development and estimated area to be disturbed reported in the registration statement.

E. Discharges authorized by this general permit may be commingled with other sources of stormwater that are not required to be covered under a state permit, so long as the commingled discharge is in compliance with this general permit. Discharges authorized by a separate state or VPDES permit may be commingled with discharges authorized by this general permit so long as all such discharges comply with all applicable state and VPDES permit requirements.

F. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit:

1. Discharges from emergency firefighting activities;

2. Fire hydrant flushings managed to avoid an instream impact;

3. Water used to wash vehicles or equipment ~~where~~, provided no soaps, solvents, or detergents ~~have not been~~ are used and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

4. Water used to control dust that ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

5. Potable water ~~source~~, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact;

6. Routine external building wash down ~~where~~, provided no soaps, solvents, or detergents ~~have not been~~ are used, external building surfaces do not contain hazardous substances, and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

7. Pavement wash water ~~where~~, provided spills or leaks of toxic or hazardous materials have not occurred ~~(or where~~, unless all spilled or leaked material ~~has been~~ is removed prior to washing~~)~~; ~~where~~ soaps, solvents, or detergents ~~have not been~~ are not used; and ~~where~~ the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

8. Uncontaminated air conditioning or compressor condensate;

9. Uncontaminated groundwater or spring water;

10. Foundation or footing drains ~~where~~, provided flows are not contaminated with process materials such as solvents or contaminated groundwater;

11. Uncontaminated, excavation dewatering, including dewatering of trenches and excavations that ~~have been~~ are filtered, settled, or similarly treated prior to discharge; and

12. Landscape ~~irrigations~~ irrigation.

G. ~~Approval for coverage~~ Coverage under this general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

H. Continuation of general permit coverage.

1. Permit coverage shall expire at the end of its term. However, expiring permit coverages are automatically continued if ~~the owner~~ an operator has submitted a complete registration statement at least ~~60~~ 90 days prior to the expiration date of the permit, or a later submittal date

established by the ~~board, which cannot extend beyond the expiration date of the permit~~ department and has paid all past due general permit maintenance fees. The permittee is authorized to continue to discharge until such time as the ~~board~~ department either:

a. Issues coverage to the operator under this general permit; or

b. Notifies the operator that the discharge is not eligible for coverage under this general permit.

2. When ~~the~~ an operator that was covered under the expiring or expired general permit has violated the conditions of that permit, the ~~board~~ department may choose to do any or all of the following:

a. Initiate enforcement action based upon the general permit coverage that has been continued;

b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the operator would then be required to cease discharges authorized by the continued general permit coverage or be subject to enforcement action for operating without a ~~state~~ permit;

c. Issue an individual permit with appropriate conditions; or

d. Take other actions authorized by the ~~VSMP~~ Virginia Erosion and Stormwater Management Regulation ~~(9VAC25-870)~~ (9VAC25-875).

9VAC25-880-40. Delegation of authorities to state and local programs.

A ~~board-approved VSMP~~ department-approved VESMP authority is authorized to administer requirements of this general permit, including ~~but not limited to:~~ (i) registration statement acceptance, (ii) general permit fee collection, and (iii) stormwater management plan review and approval dependent upon conditions established as part of the ~~board~~ approval.

9VAC25-880-50. Registration statement.

A. Deadlines for submitting registration statement. Any operator seeking coverage under this general permit, and that is required to submit a registration statement, shall submit a complete and accurate general VPDES permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for discharges of stormwater from construction activities.

1. New construction activities.

a. Any operator proposing a new stormwater discharge from construction activities shall submit a complete and accurate registration statement to the ~~VSMP~~ VESMP authority prior to the commencement of land disturbance.

b. Any operator proposing a new stormwater discharge from construction activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment is authorized to discharge under this general permit, provided that:

(1) The operator submits a complete and accurate registration statement to the ~~VSMP~~ VESMP authority no later than 30 days after ~~commencing~~ the commencement of land disturbance; and

(2) Documentation to substantiate the occurrence of the public emergency is provided with the registration statement.

c. Any operator proposing a new stormwater discharge associated with a small construction activity involving the construction of a single-family detached residential structure, within or outside a common plan of development or sale, is authorized to discharge under this general permit and is not required to submit a registration statement ~~or~~. Any operator proposing a new stormwater discharge associated with the construction of a single-family detached residential structure, within or outside a common plan of development or sale, is not required to submit the department portion of the permit fee.

2. Existing construction activities.

a. Any operator who was authorized to discharge under the expiring or expired 2019 general permit and who intends to continue coverage under this general permit shall:

(1) Submit a complete and accurate registration statement to the ~~VSMP~~ VESMP authority at least ~~60~~ 90 days prior to the expiration date of the existing permit or a later submittal date established by the ~~board~~ department; and

(2) Update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.

b. Any operator with an existing stormwater discharge associated with a small construction activity involving the construction of a single-family detached residential structure, within or outside a common plan of development or sale, that intends to continue coverage under this general permit, is authorized to discharge under this general permit and is not required to submit a registration statement ~~or the department portion of the permit fee~~, provided that the operator updates its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit. Any operator with an existing stormwater discharge associated with the construction of a single-family detached residential structure, within or outside a common plan of development or sale, that intends to continue coverage under this general permit is not required to submit the department portion of the permit fee.

3. ~~For stormwater discharges from construction activities where the operator changes, the~~ Transfer of ownership. The new operator shall submit a complete and accurate registration statement or transfer of ownership agreement form and any other documents ~~deemed necessary~~ required by the ~~VSMP~~ VESMP authority to the ~~VSMP~~ VESMP authority ~~to demonstrate transfer of ownership and long-term maintenance responsibilities for stormwater management facilities, as required, has occurred~~ prior to assuming operational control over construction site specifications or ~~commencing work on site~~ the commencement of land disturbance.

4. Late ~~notifications~~ submissions. Operators are not prohibited from submitting registration statements after ~~commencing~~ the commencement of land disturbance. When a late registration statement is submitted, authorization for discharges shall not occur until coverage under the general permit is issued. The ~~VSMP~~ VESMP authority, department, ~~board,~~ and ~~the~~ EPA reserve the right to take enforcement action for any unpermitted discharges that occur between the commencement of land disturbance and discharge authorization.

5. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 a of this section will be accepted after the expiration date of this permit, but authorization to discharge will not be retroactive. The ~~VSMP~~ VESMP authority, department, ~~board,~~ and ~~the~~ EPA reserve the right to take enforcement action for any unpermitted discharges that occur after existing permit coverage expires and prior to coverage under this permit is approved.

B. Registration statement. The operator shall submit a complete and accurate registration statement to the ~~VSMP~~ VESMP authority that contains the following information:

1. Name, contact, mailing address, telephone number, and email address if available of the construction activity operator. No more than one operator may receive coverage under each registration statement;

~~NOTE:~~ General permit coverage will be issued to this operator, and the certification in subdivision ~~17~~ 18 of this subsection shall be signed by the appropriate person associated with this operator as described in Part III K of 9VAC25-880-70.

2. State Corporation Commission entity identification number if the operator is required to obtain an entity identification number;

3. Name and physical location address of the construction activity, when available, to be covered under this general permit, including city or county, and latitude and longitude in decimal degrees (six digits - ten-thousandths place);

~~3.~~ 4. A legible site map ~~(in an 8.5 inch by 11 inch format)~~ showing the location of the existing or proposed land-disturbing activities for which the operator is seeking permit coverage, the limits of land disturbance, construction entrances, ~~on site~~ construction support activities, and all water bodies receiving stormwater discharges from the construction site;

~~4.~~ 5. If off-site construction support activities will be used, the name and physical location address, when available, of all off-site construction support activities, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and whether or not the off-site construction support activity will be covered under this general permit or a separate VPDES permit;

~~5.~~ 6. If excavated material (i.e., fill) will be transported off the construction site for disposal, the name and physical location address, when available, of all off-site excavated material disposal areas, including city or county; latitude and longitude in decimal degrees (six digits - ten-thousandths place); and the contents of the excavated material;

~~6.~~ 7. Status of the construction activity: federal, state, public, or private;

~~7.~~ 8. Nature of the construction activity (e.g., commercial, industrial, residential, agricultural, oil and gas~~, etc.~~);

~~8.~~ 9. If stormwater management or erosion and sediment control plans for the construction activity have been approved by an entity with department approved ~~annual~~ standards and specifications, ~~the name of the entity with the department approved annual standards and specifications. A copy of the annual~~ a complete and accurate standard and specification entity form shall be submitted with the registration statement;

~~9. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, the~~ 10. The date of erosion and sediment control plan approval for the estimated area to be disturbed ~~by the construction activity~~ during this permit term for construction activities that were authorized to discharge under the expiring or expired 2019 general permit;

~~10. If the construction activity was previously authorized to discharge under the general permit effective July 1, 2014, whether~~ 11. If land disturbance has commenced for construction activities that were authorized to discharge under the expiring or expired 2019 general permit;

~~11.~~ 12. Name of the receiving waters and sixth order Hydrologic Unit Code (HUC);

~~12. If the discharge is through a municipal separate storm sewer system (MS4), the~~ 13. The name of the ~~MS4~~ municipal separate storm sewer system (MS4) operator if the construction activity discharges to an MS4;

~~13.~~ 14. Estimated ~~project~~ construction activity start date and completion date;

~~14.~~ 15. Total ~~land~~ area of ~~development~~ the construction site and estimated area to be disturbed by the construction activity during ~~this~~ the 2024 general permit term (to the nearest one-hundredth of an acre);

~~15. Whether~~ 16. If the area to be disturbed by the construction activity is part of a larger common plan of development or sale;

~~16.~~ 17. If nutrient credits ~~are to be~~ will be used to ~~demonstrate compliance~~ comply with the water quality ~~technical~~ design criteria ~~as allowed in 9VAC25-870-65 F~~ requirements (9VAC25-875-590), a letter of availability from an appropriate nutrient bank that nonpoint source nutrient credits are available; ~~17. A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with the requirements of the General VPDES Permit for Stormwater Discharges from Construction Activities prior to submitting the registration statement. By signing the registration statement, the operator certifies that the SWPPP has been prepared;~~ and

18. The following certification: "I certify under penalty of law that I have read and understand this registration statement and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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."

C. A stormwater pollution prevention plan (SWPPP) shall be prepared in accordance with this general permit prior to submitting the registration statement. By signing the registration statement, the operator certifies that the SWPPP has been prepared.

D. The registration statement shall be signed in accordance with ~~9VAC25-880-70,~~ Part III K of 9VAC25-880-70.

9VAC25-880-60. Termination of general permit coverage.

A. Requirements. The operator of the construction activity shall submit a complete and accurate notice of termination, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached residential structures, to the ~~VSMP~~ VESMP authority after one or more of the following conditions have been met:

1. Necessary permanent control measures included in the SWPPP for the construction site are in place and functioning effectively and final stabilization has been achieved on all portions of the construction site for which the operator has operational control. When applicable, long-term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a complete and accurate notice of termination, and the construction record drawing prepared;

2. Another operator has assumed control over all areas of the construction site that have not been finally stabilized and obtained coverage for the ongoing discharge;

3. Coverage under an alternative VPDES permit or ~~state~~ other applicable permit has been obtained; or

4. For individual lots in residential construction only, final stabilization as defined in 9VAC25-880-1 has been completed, including providing written notification to the homeowner and incorporating a copy of the notification and signed certification statement into the SWPPP, and the residence has been transferred to the homeowner.

B. Notice of termination due date and effective date.

1. The notice of termination shall be submitted no later than 30 days after one of the conditions in subsection A of this section is met.

2. Termination of authorization ~~to discharge for the conditions set forth in subdivision A 1 of this section~~ shall become effective upon notification from the department that the provisions of subdivision A 1 of this section have been met or ~~60~~ 90 days after ~~submittal~~ receipt of a complete and accurate notice of termination, whichever occurs first, unless otherwise notified by the VESMP authority or the department.

~~3. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions A 2 through A 4 of this section unless otherwise notified by the VSMP authority or the department.~~

C. Notice of termination. The complete notice of termination shall contain the following information:

1. Name, contact, mailing address, telephone number, and email address, if available, of the construction activity operator;

2. Name and physical location address of the construction activity, when available, covered under this general permit, including city or county, and latitude and longitude in decimal degrees (six digits - ten-thousandths place);

3. The general permit registration number;

4. The basis for submission of the notice of termination, pursuant to subsection A of this section;

5. Where applicable, a list of the on-site and off-site permanent control measures (both structural and

nonstructural) that were installed to comply with the stormwater management water quality and water quantity technical criteria. For each permanent control measure that was installed, the following information shall be included:

a. The type of permanent control measure installed and the date that it became functional as a permanent control measure;

b. The location of the permanent control measure, including city or county, and latitude and longitude in decimal degrees;

c. The receiving water to which the permanent control measures discharge; and

d. The number of total and impervious acres treated by the permanent control measures (to the nearest one-hundredth of an acre);

6. Where applicable, the following information related to participation in a regional stormwater management plan. For each regional stormwater management facility, the following information shall be included:

a. The type of regional facility to which the site contributes;

b. The location of the regional facility, including city or county, and latitude and longitude in decimal degrees; and

c. The number of total and impervious site acres treated by the regional facility (to the nearest one-hundredth of an acre);

7. Where applicable, the following information related to perpetual nutrient credits that were acquired in accordance with § 62.1-44.15:35 of the Code of Virginia:

a. The name of the nonpoint nutrient credit generating entity from which perpetual nutrient credits were acquired; and

b. The number of perpetual nutrient credits acquired (~~lbs.~~ pounds per acre per year).

8. A construction record drawing in a format as specified by the ~~VSMP~~ VESMP authority for ~~permanent~~ long-term stormwater management facilities in accordance with ~~9VAC25-870-55 D~~ 9VAC25-875-535 appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan;

9. Where applicable, evidence that the signed Stormwater Management Maintenance Agreement has been recorded in an instrument within the local land records;

10. For individual lots in residential construction only when the homebuilder established temporary soil stabilization, a signed statement from the permittee that the new owner, if not the same as the permittee, has been notified of the final stabilization requirements; and

11. The following certification: "I certify under penalty of law that I have read and understand this notice of termination and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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."

D. The notice of termination shall be signed in accordance with ~~9VAC25-880-70.~~ Part III K of 9VAC25-880-70.

E. Termination by the ~~board~~ department. The ~~board~~ department may terminate coverage under this general permit during its term and require application for an individual permit or deny a general permit renewal application on its own initiative in accordance with the Virginia Erosion and Stormwater Management Act (Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia), this chapter, and the ~~VSMP~~ Virginia Erosion and Stormwater Management Regulation, ~~9VAC25-870~~ 9VAC25-875.

9VAC25-880-70. General permit.

Any operator whose registration statement is accepted by the ~~board~~ department will receive the following general permit and shall comply with the requirements contained ~~therein~~ in this general permit and be subject to all requirements of ~~9VAC25-870~~ 9VAC25-875.

General Permit No.: VAR10

Effective Date: July 1, ~~2019~~ 2024

Expiration Date: June 30, ~~2024~~ 2029

GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA EROSION AND STORMWATER MANAGEMENT ACT

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the Virginia Erosion and Stormwater Management Act and regulations adopted pursuant thereto, operators of construction activities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in State Water Control Board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with the registration statement filed with the Department of Environmental Quality, this cover page, Part I - Discharge Authorization and Special Conditions, Part II - Stormwater Pollution Prevention Plan, and Part III - Conditions Applicable to All VPDES Permits as set forth in this general permit.

Part I
DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

A. Coverage under this general permit.

1. During the period beginning with the date of coverage under this general permit and lasting until the general permit's expiration date, the operator is authorized to discharge stormwater from construction activities.

2. This general permit also authorizes stormwater discharges from construction support activities ~~(e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas)~~ located on-site or off-site provided that:

a. The support activity is directly related to the construction ~~activity~~ site that is required to have general permit coverage for discharges ~~of stormwater from construction activities~~;

b. The support activity is ~~not~~ neither a commercial operation~~,~~ nor ~~does it serve~~ serves multiple unrelated construction ~~activities by different operators~~ sites;

c. The support activity does not operate beyond the completion of the last construction activity it supports;

d. The support activity is identified in the registration statement at the time of general permit coverage or reported in a modified registration statement once the need for the support activity is known;

e. Appropriate control measures are identified in a stormwater pollution prevention plan and implemented to address the discharges from the support activity ~~areas~~; and

f. All applicable state, federal, and local approvals are obtained for the support activity.

B. Limitations on coverage.

1. Post-construction discharges. This general permit does not authorize stormwater discharges that originate from the construction site after construction activities have been completed and the construction site, including any construction support activity ~~sites~~ covered under the general permit registration, has undergone final stabilization. Post-construction industrial stormwater discharges may need to be covered by a separate VPDES permit.

2. Discharges mixed with nonstormwater. This general permit does not authorize discharges that are mixed with sources of nonstormwater, other than those discharges that are identified in Part I E (Authorized nonstormwater discharges) and are in compliance with this general permit.

3. Discharges covered by another ~~state~~ permit. This general permit does not authorize discharges of stormwater from construction activities that ~~have been~~ are covered under an individual permit or required to obtain coverage under an alternative general permit.

4. Impaired waters and total maximum daily load (TMDL) limitation.

a. Nutrient and sediment impaired waters. Discharges of stormwater from construction activities to surface waters identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for (i) sediment or a sediment-related parameter (i.e., total suspended solids or turbidity) or (ii) nutrients (i.e., nitrogen or phosphorus), including all surface waters within the Chesapeake Bay Watershed, are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a stormwater pollution prevention plan (SWPPP) in accordance with Part II B 5 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations and implements an inspection frequency consistent with Part II G 2 a.

b. Polychlorinated biphenyl (PCB) impaired waters. Discharges of stormwater from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report or for which a TMDL wasteload allocation has been established and approved prior to the term of this general permit for PCB are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 6 of this permit that minimizes the pollutants of concern and, when applicable, is consistent with the assumptions and requirements of the approved TMDL wasteload allocations~~,~~ and implements an inspection frequency consistent with Part II G 2 a.

5. Exceptional waters limitation. Discharges of stormwater from construction activities not previously covered under the general permit effective on July 1, 2014, to exceptional waters identified in 9VAC25-260-30 A 3 c are not eligible for coverage under this general permit unless the operator develops, implements, and maintains a SWPPP in accordance with Part II B 7 of this permit and implements an inspection frequency consistent with Part II G 2 a.

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

C. Commingled discharges. Discharges authorized by this general permit may be commingled with other sources of stormwater that are not required to be covered under a ~~state~~ permit, so long as the commingled discharge is in compliance with this general permit. Discharges authorized by a separate state or VPDES permit may be commingled with discharges authorized by this general permit so long as all such discharges

comply with all applicable state and VPDES permit requirements.

D. Prohibition of nonstormwater discharges. Except as provided in Parts I A 2, I C, and I E, all discharges covered by this general permit shall be composed entirely of stormwater associated with construction activities. All other discharges including the following are prohibited:

1. Wastewater from washout of concrete;

2. Wastewater from the washout ~~and~~ or cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;

3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;

4. Oils, toxic substances, or hazardous substances from spills or other releases; and

5. Soaps, solvents, or detergents used in equipment and vehicle washing.

E. Authorized nonstormwater discharges. The following nonstormwater discharges from construction activities are authorized by this general permit ~~when discharged in compliance with this general permit~~:

1. Discharges from emergency firefighting activities;

2. Fire hydrant flushings, managed to avoid an instream impact;

3. Waters used to wash vehicles or equipment ~~where~~, provided no soaps, solvents, or detergents ~~have not been~~ are used and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

4. Water used to control dust that ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

5. Potable water ~~sources~~, including uncontaminated waterline flushings, managed in a manner to avoid an instream impact;

6. Routine external building wash down ~~where~~ provided no soaps, solvents or detergents ~~have not been~~ are used, external building surfaces do not contain hazardous substances, and the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

7. Pavement wash waters ~~where~~, provided spills or leaks of toxic or hazardous materials have not occurred ~~(or where~~, unless all spilled or leaked material has been removed prior to washing~~)~~; ~~where~~ soaps, solvents, or detergents ~~have not been~~ are not used; and where the wash water ~~has been~~ is filtered, settled, or similarly treated prior to discharge;

8. Uncontaminated air conditioning or compressor condensate;

9. Uncontaminated ground water or spring water;

10. Foundation or footing drains ~~where~~, provided flows are not contaminated with process materials such as solvents or contaminated groundwater;

11. Uncontaminated excavation dewatering, including dewatering of trenches and excavations that ~~have been~~ are filtered, settled, or similarly treated prior to discharge; and

12. Landscape irrigation.

F. Termination of general permit coverage.

1. The operator of the construction activity shall submit a notice of termination in accordance with 9VAC25-880-60, unless a registration statement was not required to be submitted in accordance with 9VAC25-880-50 A 1 c or A 2 b for single-family detached residential structures, to the ~~VSMP~~ Virginia Erosion and Stormwater Management (VESMP) authority after one or more of the following conditions have been met:

a. Necessary permanent control measures included in the SWPPP for the construction site are in place and functioning effectively and final stabilization has been achieved on all portions of the construction site for which the operator has operational control. When applicable, long term responsibility and maintenance requirements for permanent control measures shall be recorded in the local land records prior to the submission of a complete and accurate notice of termination and the construction record drawing prepared;

b. Another operator has assumed control over all areas of the construction site that have not been finally stabilized and obtained coverage for the ongoing discharge;

c. Coverage under an alternative VPDES permit or ~~state~~ other applicable permit has been obtained; or

d. For individual lots in residential construction only, final stabilization as defined in 9VAC25-880-1 has been completed, including providing written notification to the homeowner and incorporating a copy of the notification and signed certification statement into the SWPPP, and the residence has been transferred to the homeowner.

2. The notice of termination shall be submitted no later than 30 days after one of the ~~above~~ conditions in subdivision 1 of this subsection is met.

3. Termination of authorization to discharge ~~for the conditions set forth in subdivision 1 a of this subsection~~ shall be effective upon notification from the department that the provisions of subdivision 1 ~~a~~ of this subsection have been met or ~~60~~ 90 days after submittal of a complete and accurate notice of termination in accordance with 9VAC25-880-60 C, whichever occurs first, unless otherwise notified by the VESMP or the department.

~~4. Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in subdivisions 1 b through 1 d of this~~

~~subsection unless otherwise notified by the VSMP authority or department.~~

~~5.~~ 4. The notice of termination shall be signed in accordance with Part III K 1 and include the required certification in accordance with Part III K 4 of this general permit.

G. Water quality protection.

1. The operator shall select, install, implement, and maintain control measures as identified in the SWPPP at the construction site that minimize pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard.

2. If it is determined by the department that the operator's discharges are causing, have reasonable potential to cause, or are contributing to an excursion above any applicable water quality standard, the department, in consultation with the ~~VSMP~~ VESMP authority, may take appropriate enforcement action and require the operator to:

a. Modify or implement additional control measures in accordance with Part II C to adequately address the identified water quality concerns;

b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or

c. Submit an individual permit application in accordance with ~~9VAC25-870-410~~ 9VAC25-875-980 B 3.

H. All written responses required under this ~~chapter~~ general permit shall include a signed certification consistent with Part III K.

Part II
STORMWATER POLLUTION PREVENTION PLAN

A. Stormwater pollution ~~prevent~~ prevention plan.

1. A stormwater pollution prevention plan (SWPPP) shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any construction support activity, covered by this general permit. SWPPPs shall be prepared in accordance with good engineering practices. Construction activities that are part of a larger common plan of development or sale and disturb less than one acre may utilize a SWPPP template provided by the department and need not provide a separate stormwater management plan if one has been prepared and implemented for the larger common plan of development or sale.

2. The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans such as a spill prevention control and countermeasure (SPCC) plan developed for the construction site under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the ~~facility~~ construction site provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II B. All plans incorporated by reference into the SWPPP become enforceable under this general permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP, the operator shall develop the missing elements and include them in the SWPPP.

3. Any operator that was authorized to discharge under the general permit effective July 1, 2014, and that intends to continue coverage under this general permit~~,~~ shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later than 60 days after the date of coverage under this general permit.

B. Contents. The SWPPP shall include the following items:

1. General information.

a. A signed copy of the registration statement, if required, for coverage under ~~the~~ this general ~~VPDES~~ permit ~~for discharges of stormwater from construction activities~~;

b. Upon receipt, a copy of the notice of coverage under ~~the~~ this general ~~VPDES~~ permit ~~for discharges of stormwater from construction activities~~ (i.e., notice of coverage letter);

c. Upon receipt, a copy of the general VPDES permit for discharges of stormwater from construction activities;

d. A narrative description of the nature of the construction activity, including the function of the project (e.g., low density residential, shopping mall, highway~~, etc.~~);

e. A legible map of the construction site ~~plan~~ identifying:

(1) ~~Directions of stormwater flow~~ Existing and proposed drainage patterns on the construction site and approximate slopes ~~anticipated~~ before and after major grading activities;

(2) Limits of clearing and grading (i.e., land disturbance) including steep slopes and natural buffers around surface waters that will ~~not be disturbed~~ remain undisturbed;

(3) Locations of major structural and nonstructural control measures, including sediment basins and traps, perimeter dikes and diversions, sediment barriers, and other measures intended to filter, settle, or similarly treat sediment, that will be installed between disturbed areas and the undisturbed vegetated areas in order to increase sediment removal and maximize stormwater infiltration;

(4) Locations of surface waters;

(5) Locations where concentrated stormwater is discharged;

(6) Locations of any construction support activities, including (i) areas where equipment and vehicle washing, wheel wash water, and other wash water is to occur; (ii) storage areas for chemicals such as acids, fuels, fertilizers, and other lawn care chemicals; (iii) concrete wash out areas; (iv) vehicle fueling and maintenance areas; (v)

sanitary waste facilities, including those temporarily placed on the construction site; ~~and~~ (vi) construction waste storage; and (vii) areas where polymers, flocculants, or other stormwater treatment chemicals will be used or stored; and

(7) When applicable, the location of the on-site rain gauge or the methodology established in consultation with the ~~VSMP~~ VESMP authority used to identify measurable storm events for inspection as allowed by Part II G 2 a (1) (ii) or 2 b (2).

2. Erosion and sediment control plan.

a. An erosion and sediment control plan designed and approved in accordance with the Virginia Erosion and ~~Sediment Control~~ Stormwater Management Regulations ~~(9VAC25-840)~~ (9VAC25-875), an "agreement in lieu of a plan" as defined in ~~9VAC25-840-10 from the VESCP authority~~ 9VAC25-875-20, or an erosion and sediment control plan prepared in accordance with ~~annual~~ department-approved standards and specifications ~~approved by the department~~.

b. All erosion and sediment control plans shall include a statement describing the maintenance responsibilities required for the erosion and sediment controls used.

c. An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved ~~annual~~ standards and specifications~~,~~ shall be implemented to:

(1) Control the volume and velocity of stormwater runoff within the construction site to minimize soil erosion;

(2) Control stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

(3) Minimize the amount of soil exposed during the construction activity;

(4) Minimize the disturbance of steep slopes;

(5) Minimize sediment discharges from the construction site in a manner that addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the nature of resulting stormwater runoff; and (iii) soil characteristics, including the range of soil particle sizes present on the construction site;

(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal, and maximize stormwater infiltration, unless ~~infeasible~~ infiltration would be inadvisable due to the underlying geology (e.g., karst topography) and groundwater contamination concerns or infeasible due to site conditions;

(7) Minimize soil compaction ~~and, unless infeasible, preserve topsoil~~. Minimizing soil compaction is not required where the intended function of a specific area of the construction site dictates that it be compacted;

(8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the construction site dictates that the topsoil be disturbed or removed;

(9) Ensure the initiation of stabilization activities~~, as defined in 9VAC25-880-1,~~ of disturbed areas occurs immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of construction the site, or temporarily ceased on any portion of the construction site and will not resume for a period exceeding 14 days; and

~~(9)~~ (10) Utilize outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basins or sediment traps.

3. Stormwater management plan.

a. Except for those projects identified in Part II B 3 b, a stormwater management plan approved ~~by the VSMP authority as authorized under~~ in accordance with the Virginia Erosion and Stormwater Management ~~Program (VSMP)~~ Regulation ~~(9VAC25-870),~~ (9VAC25-875) or an "agreement in lieu of a ~~stormwater management~~ plan" as defined in ~~9VAC25-870-10 from the VSMP authority,~~ 9VAC25-875-20 or a stormwater management plan prepared in accordance with ~~annual~~ department-approved standards and specifications ~~approved by the department~~.

b. For any operator meeting the conditions of ~~9VAC25-870-47~~ 9VAC25-875-480 B of the ~~VSMP regulation~~ Virginia Erosion and Stormwater Management Regulation, an approved stormwater management plan is not required. In lieu of an approved stormwater management plan, the SWPPP shall include a description of~~,~~ and all necessary calculations supporting~~,~~ all post-construction stormwater management measures that will be installed prior to the completion of the construction process to control pollutants in stormwater discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree possible. Such measures must be designed and installed in accordance with applicable VESCP authority, ~~VSMP~~ VESMP authority, state, and federal requirements, and any necessary permits must be obtained.

4. Pollution prevention plan. A pollution prevention plan that addresses potential pollutant-generating activities that may reasonably be expected to affect the quality of stormwater discharges from the construction activity, including any support activity. The pollution prevention plan shall:

a. Identify the potential pollutant-generating activities and the pollutant that is expected to be exposed to stormwater;

b. Describe the location where the potential pollutant-generating activities will occur, or if identified on the site plan, reference the site plan;

c. Identify all nonstormwater discharges, as authorized in Part I E of this general permit, that are or will be commingled with stormwater discharges from the construction activity, including any applicable support activity;

d. Identify the person responsible for implementing the pollution prevention ~~practice or~~ practices for each pollutant-generating activity (if other than the person listed as the qualified personnel);

e. Describe the pollution prevention practices and procedures that will be implemented to:

(1) Prevent and respond to leaks, spills, and other releases, including (i) procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases; and (ii) procedures for reporting leaks, spills, and other releases in accordance with Part III G;

(2) Prevent the discharge of spilled and leaked fuels and chemicals from vehicle fueling and maintenance activities (e.g., providing secondary containment such as spill berms, decks, spill containment pallets, providing cover where appropriate, and having spill kits readily available);

(3) Prevent the discharge of soaps, solvents, detergents, and wash water from construction materials, including the clean-up of stucco, paint, form release oils, and curing compounds (e.g., providing (i) cover (e.g., plastic sheeting or temporary roofs) to prevent contact with stormwater; (ii) collection and proper disposal in a manner to prevent contact with stormwater; and (iii) a similarly effective means designed to prevent discharge of these pollutants);

(4) Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water, and other types of washing (e.g., locating activities away from surface waters and ~~stormwater~~ storm drain inlets ~~or conveyance~~, and constructed or natural site drainage features and directing wash waters to sediment basins or traps, using filtration devices such as filter bags or sand filters, or using similarly effective controls);

(5) Direct concrete wash water into a leak-proof container or leak-proof settling basin~~. The container or basin shall be~~ designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters, disposed of through infiltration, or otherwise disposed of on the ground;

(6) Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes, including (i) building products such as asphalt sealants, copper flashing, roofing materials, adhesives, and concrete admixtures; (ii) pesticides, herbicides, insecticides, fertilizers, and landscape materials; and (iii) construction and domestic wastes such as packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, and other trash or building materials;

(7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, waste concrete, and sanitary wastes;

(8) Address any other discharge from the potential pollutant-generating activities not addressed ~~above~~ in this subdivision 4; and

(9) Minimize the exposure of waste materials to precipitation by closing or covering waste containers during precipitation events and at the end of the business day~~,~~ or implementing other similarly effective practices. Minimization of exposure is not required in cases where the exposure to precipitation will not result in a discharge of pollutants; and

f. Describe procedures for providing pollution prevention awareness of all applicable wastes, including any wash water, disposal practices, and applicable disposal locations of such wastes, to personnel in order to comply with the conditions of this general permit. The operator shall implement the procedures described in the SWPPP.

5. SWPPP requirements for discharges to nutrient and sediment impaired waters. For discharges to surface waters (i) identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment ~~for~~ or a sediment-related parameter (i.e., total suspended solids or turbidity) or nutrients (i.e., nitrogen or phosphorus), including all surface waters within the Chesapeake Bay Watershed, the operator shall:

a. Identify the impaired waters, approved TMDLs, and pollutants of concern in the SWPPP; and

b. Provide ~~clear direction~~ documentation in the SWPPP that:

(1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the construction site;

(2) Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and

(3) A modified inspection schedule shall be implemented in accordance with Part II G 2 a.

6. SWPPP requirements for discharges to polychlorinated biphenyl (PCB) impaired waters. For discharges from construction activities that include the demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, to surface waters (i) identified as impaired in the ~~2016~~ 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report or (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for PCB, the operator shall:

a. Identify the impaired waters, approved TMDLs, and pollutant of concern in the SWPPP;

b. Implement the approved erosion and sediment control plan in accordance with Part II B 2;

c. Dispose of waste materials in compliance with applicable state, federal, and local requirements; and

d. Implement a modified inspection schedule in accordance with Part II G 2 a.

7. SWPPP requirements for discharges to exceptional waters. For discharges to surface waters identified in 9VAC25-260-30 A 3 c as an exceptional water, the operator shall:

a. Identify the exceptional surface waters in the SWPPP; and

b. Provide ~~clear direction~~ documentation in the SWPPP that:

(1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the construction site;

(2) Nutrients shall be applied in accordance with manufacturer's recommendations or an approved nutrient management plan and shall not be applied during rainfall events; and

(3) A modified inspection schedule shall be implemented in accordance with Part II G 2 a.

8. SWPPP requirements for construction dewatering discharges to sediment impaired waters or exceptional waters. Dewatering discharges of uncontaminated stormwater or groundwater from footers or foundations of a single-family detached residential structure are exempt from the requirements of this subdivision 8, provided that such discharges are not discharged directly to surface waters. For construction dewatering discharges to surface waters (i) identified as impaired in the 2022 § 305(b)/303(d) Water Quality Assessment Integrated Report for Benthic Macroinvertebrates Bioassessments; (ii) with an applicable TMDL wasteload allocation established and approved prior to the term of this general permit for sediment or a sediment-related parameter (i.e., total suspended solids or turbidity), including all surface waters within the Chesapeake Bay Watershed; or (iii) identified in 9VAC25-260-30 A 3 c as an exceptional water, the operator shall undertake one of the following methods for controlling and documenting construction dewatering discharges:

a. Turbidity benchmark option 1:

(1) Identify the location of all construction dewatering discharges in the SWPPP;

(2) Select, install, implement, and maintain control measures at each dewatering location that minimize pollutants, including suspended solids, in construction dewatering discharges prior to discharging into a stormwater conveyance system or surface water; and

(3) Provide documentation in the SWPPP that:

(a) Sample frequency. At least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. An upstream grab sample shall be collected from the receiving stream;

(b) Sample timing. Grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter until the dewatering discharge stops. Upstream grab samples of the receiving stream shall be collected within 15 minutes of the corresponding construction dewatering discharge sample;

(c) Sample location. Grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance system or surface water;

(d) Test methods. Grab samples taken as required by this subdivision 8 shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;

(e) Visual monitoring. All dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge;

(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds the upstream grab sample of the receiving stream by more than 10 NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit; and

(g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP; or

b. Turbidity benchmark option 2:

(1) Identify the location of all construction dewatering discharges in the SWPPP;

(2) Select, install, implement, and maintain control measures at each dewatering location that minimize pollutants, including suspended solids, in construction dewatering discharges prior to discharging into a stormwater conveyance system or surface water; and

(3) Provide documentation in the SWPPP that:

(a) Sample frequency. At least one grab sample shall be collected from each construction dewatering discharge when the first discharge at that location occurs, daily thereafter until the dewatering discharge stops, and after any installation of new controls or routine maintenance activity of existing controls. Grab samples shall be tested to confirm a turbidity measurement of equal to or less than 50 NTUs/FTUs from the construction dewatering discharge;

(b) Sample timing. Grab samples of the construction dewatering discharge shall be collected during the first 15 minutes of the construction dewatering discharge and daily thereafter until the dewatering discharge stops;

(c) Sample location. Grab samples shall be collected after the construction dewatering water has been filtered, settled, or similarly treated and prior to its discharge into a stormwater conveyance system or surface water;

(d) Test methods. Grab samples taken as required by this subdivision 8 shall be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) or formazin turbidity unit (FTUs), and conduct a turbidity meter calibration verification prior to each day's use, consistent with manufacturer recommendations;

(e) Visual monitoring. All dewatering discharges shall be visually monitored for changes in the characterization of effluent discharge;

(f) Corrective action. If (i) any turbidity measurement of the construction dewatering discharge exceeds 50 NTUs/FTUs or (ii) visual monitoring indicates a change in the characterization of effluent discharge, corrective action shall be taken in accordance with Part II H 2 of this general permit; and

(g) Recordkeeping. Turbidity monitoring information (i.e., location, date, sample collection time, and turbidity measurement) and any necessary corrective actions taken shall be recorded in the SWPPP.

9. Identification of qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit.

~~9. Delegation of authority~~ 10. Duly authorized representatives. The SWPPP shall include the names of individuals or positions ~~with delegated authority, in accordance with Part III K,~~ duly authorized to sign inspection reports or modify the SWPPP on behalf of the operator. Any authorization shall be signed and dated in accordance with Part III K 2 and shall include the required certification in accordance with Part III K 4.

~~10.~~ 11. SWPPP signature and certification. The SWPPP shall be signed and dated in accordance with Part III K 2 of this general permit and shall include the required certification in accordance with Part III K 4 of this general permit.

C. SWPPP amendments, modification, and updates.

1. The operator shall amend the SWPPP whenever there is a change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and that has not been previously addressed in the SWPPP.

2. The SWPPP shall be amended if~~,~~ during inspections or investigations by the operator's qualified personnel~~,~~ or by local, state, or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in discharges from the construction activity. Revisions to the SWPPP shall include additional or modified control measures designed and implemented to correct problems identified. If approval by the VESCP authority, ~~VSMP~~ VESMP authority, or department is necessary for the control measure, revisions to the SWPPP shall be completed no later than ~~seven calendar~~ five business days following approval. Implementation of these additional or modified control measures shall be accomplished as described in Part II H.

3. The SWPPP shall clearly identify the contractors that will implement and maintain each control measure identified in the SWPPP. The SWPPP shall be amended to identify any new contractor that will implement and maintain a control measure.

4. The operator shall update the SWPPP as soon as possible but no later than ~~seven~~ five business days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items:

a. A record of dates when:

(1) Major grading activities occur;

(2) Construction activities temporarily or permanently cease on a portion of the construction site; and

(3) Stabilization measures are initiated;

b. Documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and were modified;

c. Areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;

d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;

e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release;

f. Measures taken to prevent the reoccurrence of any prohibited discharge; and

g. Measures taken to address any evidence identified as a result of an inspection required under Part II G.

5. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K 2 and shall include the required certification in accordance with Part III K 4.

D. Public notification. Upon commencement of ~~land disturbance~~ construction activities, the operator shall post ~~conspicuously~~ a copy of the notice of coverage letter at a publicly accessible location near the main entrance of the construction ~~activity~~ site. For linear projects, the operator shall post a copy of the notice of coverage letter at a publicly accessible location near an active part of the construction ~~project~~ site (e.g., where a pipeline crosses a public road). The copy of the notice of coverage letter shall be visible such that it can be readily viewed from a public right-of-way. The operator shall maintain the posted information until termination of general permit coverage as specified in Part I F.

E. SWPPP availability.

1. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP whenever they are on the construction site.

2. The operator shall make the SWPPP and all amendments, modifications, and updates available upon request to the department, the ~~VSMP~~ VESMP authority, ~~the~~ EPA, the VESCP authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location shall be posted near the main entrance of the construction site.

3. The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with Part II D. If not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or ~~his~~ the operator's designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP by this general permit is not required to be released.

F. SWPPP implementation. The operator shall implement the SWPPP and subsequent amendments, modifications, and updates from commencement of land disturbance until termination of general permit coverage as specified in Part I F.

1. All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications.

2. If a site inspection required by Part II G identifies a control measure that is not operating effectively or needs routine maintenance, corrective actions or routine maintenance shall be completed as soon as practicable, but no later than ~~seven~~ five business days after discovery or a longer period as established by the ~~VSMP~~ VESMP authority, to maintain the continued effectiveness of the control measures.

~~2.~~ 3. If the operator must make the same repairs more than two times to the same control at the same location, even if the fix can be completed by the close of the next business day, the operator shall either:

a. Complete work to fix any subsequent repeat occurrences of this same problem under the corrective action procedures in Part II H, including keeping any records of the condition and how it was corrected under Part II C; or

b. Document in the inspection report under Part II G why the specific reoccurrence of this same problem should still be addressed as a routine maintenance fix.

4. If site inspections required by Part II G identify an existing control measure that needs to be modified or if an additional or alternative control measure is necessary for any reason, implementation shall be completed prior to the next anticipated measurable storm event. If implementation prior to the next anticipated measurable storm event is impracticable, then additional or alternative control measures shall be implemented as soon as practicable, but no later than ~~seven~~ five business days after discovery or a longer period as established by the ~~VSMP~~ VESMP authority.

G. SWPPP Inspections.

1. Personnel responsible for on-site and off-site inspections. Inspections required by this general permit shall be conducted by the qualified personnel identified by the operator in the SWPPP. The operator is responsible for ensuring that the qualified personnel conduct the inspection. Qualified personnel may be a person on the operator's staff or a third party hired to conduct such inspections.

2. Inspection schedule.

a. For construction activities that discharge to a surface water identified in Part II B 5 and B 6 as impaired or having an approved TMDL or Part II B 7 as exceptional, the following inspection schedule requirements apply:

(1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once

every five business days and no later than 24 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 24 hours between business days, the inspection shall be conducted on the next business day; and

(2) Representative inspections as authorized in Part II G 2 d shall not be allowed.

b. Except as specified in Part II G 2 a, inspections shall be conducted at a frequency of:

(1) At least once every five business days; or

(2) At least once every 10 business days and no later than 24 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 24 hours between business days, the inspection shall be conducted on the next business day.

(a) A storm event that produces 0.25 inches or more of rain within a 24-hour period on the first day of the storm and continues to produce 0.25 inches or more of rain on subsequent days. The operator is required to conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the last day of the storm that produces 0.25 inches or more of rain.

(b) A discharge caused by snowmelt. The operator is required to conduct one inspection once the discharge of snowmelt occurs. Additional inspections are only required if following the discharge from the first snowmelt, there is a discharge from a separate storm event.

c. Where areas have been temporarily stabilized or ~~land-disturbing~~ construction activities will be suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection frequency described in Part II G 2 a and 2 b may be reduced to once per month. If weather conditions (such as above freezing temperatures or rain or snow events) make discharges likely, the operator shall immediately resume the regular inspection frequency.

d. Except as prohibited in Part II G 2 a (2), representative inspections may be utilized for utility line installation, pipeline construction, or other similar linear construction activities provided that:

(1) Temporary or permanent soil stabilization has been installed and vehicle access may compromise the temporary or permanent soil stabilization and potentially cause additional land disturbance increasing the potential for erosion;

(2) Inspections occur on the same frequency as other construction activities;

(3) Control measures are inspected along the construction site 0.25 miles above and below each access point (i.e., where a roadway, undisturbed right-of-way, or other similar feature intersects the construction activity and access does not compromise temporary or permanent soil stabilization); and

(4) Inspection locations are provided in the inspection report required by Part II G.

e. If adverse weather causes the safety of the inspection personnel to be in jeopardy, the inspection may be delayed until the next business day on which it is safe to perform the inspection. Any time inspections are delayed due to adverse weather conditions, evidence of the adverse weather conditions shall be included in the SWPPP with the dates of occurrence.

3. Inspection requirements. ~~a.~~ As part of the inspection, the qualified personnel shall at a minimum:

~~(1)~~ a. Record the date and time of the inspection and, when applicable, the date and rainfall or snowfall amount of the last measurable storm event;

~~(2)~~ b. Record the information and a description of any discharges occurring at the time of the inspection or evidence of discharges occurring prior to the inspection;

~~(3)~~ c. Record any l~~and-disturbing~~ construction activities that have occurred outside of the approved erosion and sediment control plan;

~~(4)~~ d. Inspect all stormwater discharge locations at the construction site. If a stormwater discharge is occurring during the inspection, observe and document the visual quality and characteristics of the discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of stormwater pollutants;

e. Inspect all construction dewatering discharge locations at the construction site, if applicable. If a construction dewatering discharge is occurring during the inspection, observe and document the visual quality and the characteristics of the discharge, including color; odor; floating, settled, or suspended solids; foam; oil sheen; and other indicators of pollutants;

f. Inspect the following for installation in accordance with the approved erosion and sediment control plan, identification of any maintenance needs, and evaluation of effectiveness in minimizing sediment discharge, including whether the control has been inappropriately or incorrectly used:

~~(a)~~ (1) All perimeter erosion and sediment controls, such as silt fence;

~~(b)~~ (2) Soil stockpiles, when applicable, and borrow areas for stabilization or sediment trapping measures;

~~(c)~~ (3) Completed earthen structures, such as dams, dikes, ditches, and diversions for stabilization and effective impoundment or flow control;

~~(d)~~ (4) Cut and fill slopes;

~~(e)~~ (5) Sediment basins and traps, sediment barriers, and other measures installed to control sediment discharge from stormwater;

~~(f)~~ (6) Temporary or permanent channels, flumes, or other slope drain structures installed to convey concentrated runoff down cut and fill slopes;

~~(g)~~ (7) Storm inlets that have been made operational to ensure that sediment laden stormwater does not enter without first being filtered or similarly treated; and

~~(h)~~ (8) Construction vehicle access routes that intersect or access paved or public roads for minimizing sediment tracking;

~~(5)~~ g. Inspect areas that have reached final grade or that will remain dormant for more than 14 days to ensure:

~~(a)~~ (1) Initiation of stabilization activities have occurred immediately, as defined in 9VAC25-880-1; and

~~(b)~~ (2) Stabilization activities have been completed within seven days of reaching grade or stopping work;

~~(6)~~ h. Inspect for evidence that the approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved ~~annual~~ standards and specifications has not been properly implemented. This includes:

~~(a)~~ (1) Concentrated flows of stormwater in conveyances such as rills, rivulets, or channels that have not been filtered, settled, or similarly treated prior to discharge, or evidence thereof;

~~(b)~~ (2) Sediment laden or turbid flows of stormwater that have not been filtered or settled to remove sediments prior to discharge;

~~(c)~~ (3) Sediment deposition in areas that drain to unprotected stormwater inlets or catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to improper installation, lack of maintenance, or inadequate design are considered unprotected;

~~(d)~~ (4) Sediment deposition on any property (including public and private streets) outside of the construction activity covered by this general permit;

~~(e)~~ (5) Required stabilization has not been initiated or completed or is not effective on portions of the construction site;

~~(f)~~ (6) Sediment basins without adequate wet or dry storage volume or sediment basins that allow the discharge of stormwater from below the surface of the wet storage portion of the basin;

~~(g)~~ (7) Sediment traps without adequate wet or dry storage or sediment traps that allow the discharge of stormwater from below the surface of the wet storage portion of the trap; and

~~(h)~~ (8) Land disturbance or sediment deposition outside of the approved area to be disturbed;

~~(7)~~ i. Inspect pollutant generating activities identified in the pollution prevention plan for the proper implementation, maintenance, and effectiveness of the procedures and practices;

~~(8)~~ j. Identify and report any pollutant generating activities not identified in the pollution prevention plan; and

~~(9)~~ k. Identify and document the presence of any evidence of the discharge of pollutants prohibited by this general permit.

4. Inspection report. Each inspection report shall include the following items:

a. The date and time of the inspection and, when applicable, the date and rainfall or snowfall amount of the last measurable storm event;

b. Summarized findings of the inspection;

c. The locations, visual quality, and characteristics of all stormwater discharges, when occurring;

d. The locations, visual quality, and characteristics of all construction dewatering discharges, if applicable;

e. The locations of prohibited discharges;

~~d.~~ f. The locations of control measures that require routine maintenance;

~~e.~~ g. The locations of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location;

~~f.~~ h. The locations where any evidence identified under Part II G 3 ~~a (6)~~ h exists;

~~g.~~ i. The locations where any additional control measure is needed;

~~h.~~ j. A list of corrective actions required (including any changes to the SWPPP that are necessary) as a result of the inspection or to maintain permit compliance;

~~i.~~ k. Documentation of any corrective actions required from a previous inspection that have not been implemented;

l. Any incidents of noncompliance. If none, the report shall contain a certification that the construction activity is in compliance with the SWPPP and this general permit;

m. The required certification in accordance with Part III K 4 of this general permit; and

~~j.~~ n. The date and signature of the qualified personnel and the operator or its duly authorized representative in accordance with Part III K 2 of this general permit.

5. The inspection report shall be included into the SWPPP no later than four business days after the inspection is complete.

6. The inspection report and any actions taken in accordance with Part II shall be retained by the operator as part of the SWPPP for at least three years from the date that general permit coverage expires or is terminated. ~~The inspection report shall identify any incidents of noncompliance. Where an inspection report does not identify any incidents of~~

~~noncompliance, the report shall contain a certification that the construction activity is in compliance with the SWPPP and this general permit. The report shall be signed in accordance with Part III K of this general permit.~~

H. Corrective actions.

1. The operator shall implement the corrective actions identified as a result of an inspection as soon as practicable but no later than ~~seven~~ five business days after discovery or a longer period as approved by the ~~VSMP~~ VESMP authority. If approval of a corrective action by a regulatory authority (e.g., ~~VSMP~~ VESMP authority, VESCP authority, or the department) is necessary, additional control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained.

2. When using turbidity benchmark option 1, the operator shall implement corrective actions when any construction dewatering discharge turbidity measurement exceeds the upstream grab sample of the receiving stream by more than 10 NTUs/FTUs or where visual monitoring indicates a change in the characterization of effluent discharge. The operator shall:

a. Cease the construction dewatering discharge at the location that exceeds upstream grab sample or where visual monitoring indicates a change in the characterization of effluent discharge;

b. Determine whether the construction dewatering controls are operating effectively or need routine maintenance or if an additional or alternate control measure is necessary; and

c. Make any necessary adjustments, additions, repairs, or replacements to the construction dewatering controls. Once these corrective action steps are completed and any necessary adjustments, additions, repairs, or replacements are made, the operator may resume its construction dewatering discharge and shall sample for turbidity within 15 minutes of the construction dewatering discharge commencing.

3. When using turbidity benchmark option 2, the operator shall implement corrective actions when any construction dewatering discharge turbidity measurement exceeds 50 NTUs/FTUs or visual monitoring of any construction dewatering control measure indicates a change in the characterization of effluent discharge or a need for adjustments, additions, repairs, or replacements to control measures. The operator shall:

a. Cease the construction dewatering discharge at the location where visual monitoring indicates a change in the characterization of effluent discharge or a need for adjustments, additions, repairs, or replacements to control measures;

b. Determine whether the construction dewatering controls are operating effectively, need routine maintenance, or need replacement or if an additional or alternate control measure is necessary; and

c. Make any necessary adjustments, additions, repairs, or replacements to the construction dewatering controls. Once these corrective action steps are completed and any necessary adjustments, additions, repairs, or replacements are made, the operator may resume its construction dewatering discharge and shall sample for turbidity within 15 minutes of the construction dewatering discharge commencing.

4. The operator may be required to remove accumulated sediment deposits located outside of the construction ~~activity~~ site covered by this general permit as soon as practicable in order to minimize environmental impacts.

5. The operator shall notify the ~~VSMP~~ VESMP authority and the department as well as obtain all applicable federal, state, and local authorizations, approvals, and permits prior to the removal of sediments accumulated in surface waters including wetlands.

Part III
CONDITIONS APPLICABLE TO ALL VPDES PERMITS

~~NOTE:~~ Discharge monitoring is not required for this general permit. If the operator chooses to monitor stormwater discharges or control measures, the operator shall comply with the requirements of ~~subsections~~ Part III A, B, and C, as appropriate.

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitoring 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 general permit. Analyses performed according to test procedures approved under 40 CFR Part 136 shall be performed by an environmental laboratory certified under regulations adopted by the Department of General Services (1VAC30-45 or 1VAC30-46).

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

B. Records.

1. Monitoring records and reports shall include:

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. The operator 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 general permit, and records of all data used to complete the registration statement for this general 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 operator, or as requested by the ~~board~~ department.

C. Reporting monitoring results.

1. The operator shall update the SWPPP to include the results of the monitoring as may be performed in accordance with this general permit, unless another reporting schedule is specified elsewhere in this general permit.

2. Monitoring results shall be reported on a discharge monitoring report (DMR); on forms provided, approved, or specified by the department; or in any format provided that the date, location, parameter, method, and result of the monitoring activity are included.

3. If the operator monitors any pollutant specifically addressed by this general permit more frequently than required by this general 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 general 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~~ that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this general permit.

D. Duty to provide information. The operator shall furnish, within a reasonable time, any information ~~which~~ that the ~~board~~ department may request to determine whether cause exists for terminating this general permit coverage or to determine compliance with this general permit. The ~~board,~~ department, EPA, or ~~VSMP~~ VESMP authority may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from ~~his~~ the operator's discharge on the quality of surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and the Virginia Erosion and Stormwater Management Act. The operator shall also furnish to the ~~board,~~ department, EPA, or ~~VSMP~~ VESMP authority, upon request, copies of records required to be kept by this general 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 general permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia, except in compliance with a ~~state~~ permit issued by the department, it shall be unlawful to cause a stormwater discharge from a construction activity.

G. Reports of unauthorized discharges. Any operator who discharges or causes or allows a discharge of sewage, industrial waste, other wastes ~~or,~~ any noxious or deleterious substance ~~or,~~ a hazardous substance, or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, 40 CFR Part 302, or § 62.1-44.34:19 of the Code of Virginia that occurs during a 24-hour period into or upon surface waters or ~~who~~ that discharges or causes or allows a discharge that may reasonably be expected to enter surface waters~~,~~ shall notify the ~~Department of Environmental Quality~~ department and the VESMP authority of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department and the ~~VSMP~~ VESMP authority within five calendar 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 general permit.

Discharges reportable to the department and the ~~VSMP~~ VESMP authority 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," as defined in this general permit, should occur from a ~~facility~~ construction site and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the department and the ~~VSMP~~ VESMP authority ~~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 operator shall reduce the report to writing and shall submit it to the department and the ~~VSMP~~ VESMP authority within five calendar days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include 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 of some or all of the facilities; and

4. Flooding or other acts of nature.

I. Reports of noncompliance. The operator shall report any noncompliance ~~which~~ that may adversely affect ~~surface~~ state waters or may endanger public health.

1. ~~An oral~~ A report to the department and the ~~VSMP~~ VESMP authority shall be provided within 24 hours from the time the operator becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this ~~subdivision~~ subsection:

a. Any unanticipated bypass; and

b. Any upset that 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 department 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 surface waters has been reported.

3. The operator shall report all instances of noncompliance not reported under Part III I 1 or 2 in writing as part of the SWPPP. The reports shall contain the information listed in Part III I 2.

~~NOTE:~~ 4. The immediate (within 24 hours) reports required in Part III G, H, and I ~~shall~~ may be made to the department and the ~~VSMP~~ VESMP authority. Reports may be made by telephone, email, ~~or by~~ fax, or online at https://www.deq.virginia.gov/get-involved/pollution-response. For reports outside normal working hours, leaving a recorded message shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

~~4.~~ 5. Where the operator becomes aware of a failure to submit any relevant facts, or submittal of incorrect information in any report, including a registration statement, to the department or the ~~VSMP~~ VESMP authority, the operator shall promptly submit such facts or correct information.

J. Notice of planned changes.

1. The operator shall give notice to the department and the ~~VSMP~~ VESMP authority as soon as possible of any planned physical alterations or additions to the permitted facility or activity. Notice is required only when:

a. The operator plans an alteration or addition to any building, structure, facility, or installation that may meet one of the criteria for determining whether a facility is a new source in ~~9VAC25-870-420~~ 9VAC25-875-990; or

b. The operator plans an alteration or addition that would significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this general permit~~; or~~.

2. The operator shall give advance notice to the department and ~~VSMP~~ VESMP authority of any planned changes in the permitted facility or activity~~, which~~ that may result in noncompliance with ~~state~~ permit requirements.

3. The operator may continue construction activities based on the information provided in the original registration statement and SWPPP but must wait until the review period has ended before commencing or continuing construction activities on any portion of the construction site that would be affected by any of the planned changes or modifications.

K. Signatory requirements.

1. Registration statement and notice of termination. All registration statements and notices of termination shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this chapter, 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-making 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 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 ~~state~~ 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 chapter, 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 and other information. All reports required by this general permit, including SWPPPs, and other information requested by ~~the board or~~ the department 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 operator. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. The signed and dated written authorization is included in the SWPPP. A copy shall be provided to the department and ~~VSMP~~ VESMP authority, if requested.

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 construction activity, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the ~~VSMP~~ VESMP authority as the administering entity for the ~~board~~ 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 III K 1 or 2 shall make the following certification:

"I certify under penalty of law that I have read and understand this document and that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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 operator shall comply with all conditions of this general permit. Any ~~state permit~~ noncompliance with this general permit constitutes a violation of the Virginia Erosion and Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this general permit may constitute a violation of the Virginia Erosion and Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for ~~state~~ permit coverage, termination, revocation, and reissuance, or modification of permit coverage; or denial of a ~~state~~ permit renewal application.

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

M. Duty to reapply. If the operator wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the operator shall submit a new registration statement at least ~~60~~ 90 days before the expiration date of the existing general permit, unless permission for a later date has been granted by the ~~board~~ department. The ~~board~~ department shall not grant permission for registration statements to be submitted later than the expiration date of the existing general permit.

N. Effect of a ~~state~~ permit. This general permit ~~does not convey~~ neither conveys any property rights in either real or personal property or any exclusive privileges~~,~~ nor ~~does it authorize~~ authorizes 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 general permit shall be construed to preclude the institution of any legal action under~~,~~ or relieve the operator 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 general permit conditions on ~~"~~bypassing~~" (~~ under Part III U~~)~~ and ~~"~~upset~~" (~~ under Part III V~~)~~, nothing in this general permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator 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 operator to achieve compliance with the conditions of this general 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 operator only when the operation is necessary to achieve compliance with the conditions of this general 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 surface waters and in compliance with all applicable state and federal laws and regulations.

S. Duty to mitigate. The operator shall take all steps to minimize or prevent any discharge in violation of this general 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 an operator 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 general permit.

U. Bypass.

1. "Bypass," as defined in ~~9VAC25-870-10~~ 9VAC25-875-850, means the intentional diversion of waste streams from any portion of a treatment facility. The operator 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 Part III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the operator knows in advance of the need for a bypass, the operator shall submit prior notice to the department, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

a. Except as provided in Part III U 1, bypass is prohibited, and the ~~board or~~ department may take enforcement action against an operator for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production;

(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 operator submitted notices as required under Part III U 2.

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

V. Upset.

1. An "upset," as defined in ~~9VAC25-870-10~~ 9VAC25-875-850, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based ~~state~~ permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based ~~state~~ permit effluent limitations if the requirements of Part III V ~~4~~ 3 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.

~~3. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.~~

~~4.~~ 3. An operator 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 operator can identify the cause of the upset;

b. The permitted facility was at the time being properly operated;

c. The operator submitted notice of the upset as required in Part III I; and

d. The operator complied with any remedial measures required under Part III S.

~~5.~~ 4. In any enforcement proceeding, the operator seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The operator shall allow the department ~~as the board's designee~~, the ~~VSMP~~ VESMP authority, EPA, or an authorized representative of either entity (including an authorized contractor), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the operator's premises where a regulated facility or activity is located or conducted~~,~~ or where records shall be kept under the conditions of this general permit;

2. Have access to and copy, at reasonable times, any records that shall be kept under the conditions of this general permit;

3. Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit; and

4. Sample or monitor at reasonable times, for the purposes of ensuring ~~state~~ permit compliance or as otherwise authorized by the Clean Water Act or the Virginia Erosion and Stormwater Management Act, 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. ~~State permit~~ Permit actions. ~~State permit~~ Permit coverage may be modified, revoked and reissued, or terminated for cause. The filing of a request by the operator for a ~~state~~ permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any ~~state~~ permit condition.

Y. Transfer of ~~state~~ permit coverage.

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

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

a. The current operator 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 operators containing a specific date for transfer of ~~state~~ permit responsibility, coverage, and liability between them; and

c. The department does not notify the existing operator and the proposed new operator of its intent to modify or revoke and reissue the ~~state~~ 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.

3. For ongoing construction activity involving a change of operator, the new operator shall accept and maintain the existing SWPPP, or prepare and implement a new SWPPP prior to taking over operations at the construction site.

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

VA.R. Doc. No. R22-7057; Filed July 25, 2023, 1:20 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Titles of Regulations: **18VAC41-20. Barbering and Cosmetology Regulations.**

18VAC41-50. Tattooing Regulations.

18VAC41-60. Body-Piercing Regulations.

18VAC41-70. Esthetics Regulations.

Agency Contact: Tamika Rodriguez, Regulatory Operations Administrator, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

FORMS (18VAC41-20)

~~Barber Barber Instructor Examination & License Application, A450-1301_02EXLIC-v14 (rev. 4/2019)~~

~~Master Barber Examination & License Application, A450-1301EXLIC-v16 (eff. 1/2021)~~

~~Nail Technician – Nail Technician Instructor Examination & License Application, A450-1206_07EXLIC-v17 (rev. 1/2021)~~

~~Wax Technician – Wax Technician Instructor Examination & License Application, A450-1214_15EXLIC-v16 (rev. 1/2021)~~

~~Cosmetology – Cosmetology Instructor Examination & License Application, A450-1201_04EXLIC-v19 (rev. 1/2021)~~

~~Temporary Permit Application, A450-1213TEMP-v2 (rev. 2/2017)~~

~~License by Endorsement Application, A450-1213END-v16 (rev. 1/2021)~~

~~Training & Experience Verification Form, A450-1213TREXP-v6 (eff. 2/2017)~~

~~Individuals – Reinstatement Application, A450-1213REI-v9 (rev. 2/2017)~~

~~Salon, Shop, Spa & Parlor License/Reinstatement Application A450-1213BUS-v9 (rev. 2/2017)~~

Barber - Master Barber - Barber Instructor Examination & License Application, A450-1301_EXLIC-v18 (rev. 5/2022)

Nail Technician – Nail Technician Instructor Examination & License Application, A450-1206_07EXLIC-v19 (rev. 5/2022)

Wax Technician – Wax Technician Instructor Examination & License Application, A450-1214_15EXLIC-v18 (rev. 5/2022)

Cosmetology – Cosmetology Instructor Examination & License Application, A450-1201_04EXLIC-v21 (rev. 5/2022)

Temporary Permit Application, A450-1213TEMP-v3 (rev. 12/2021)

License by Endorsement Application, A450-1213END-v18 (rev. 9/2022)

Individuals – Reinstatement Application, A450-1213REI-v13 (rev. 9/2022)

Salon, Shop, Spa & Parlor License/Reinstatement Application A450-1213BUS-v16 (rev. 9/2022)

Salon, Shop & Spa Self Inspection Form, A450-1213_SSS_INSP-v2 (eff. 5/2016)

~~Instructor Certification Application, A450-1213INST-v9 (rev. 1/2018)~~

~~Student Instructor – Temporary Permit Application A450-1213ST_TEMP-v2 (rev. 2/2017)~~

~~School License Application, A450-1213SCHL-v10 (rev. 2/2017)~~

~~School Reinstatement Application A450-1213SCHL-REIN-v3 (eff. 2/2017)~~

~~School Self-Inspection Form, A450-1213_SCH_INSP-v4 (eff. 5/2016)~~

~~Licensure Fee Notice, A450-1213FEE-v7 (rev. 1/2017)~~

~~Change of Responsible Management Application, A450-1213CRM-v1 (rev. 2/2017)~~

~~Training Substitution Form, A450-1213TR_SUB-v1 (rev. 1/2021)~~

Instructor Certification Application, A450-1213INST-v17 (rev. 10/2022)

Student Instructor – Temporary Permit Application A450-1213ST_TEMP-v4 (rev. 12/2021)

School License Application, A450-1213SCHL-v18 (rev. 5/2023)

School Reinstatement Application A450-1213SCHL-REIN-v9 (eff. 9/2022)

School Self-Inspection Form, A450-1213_SCH_INSP-v5 (eff. 1/2022)

Licensure Fee Notice, A450-1213FEE-v11 (rev. 9/2022)

Change of Responsible Management Application, A450-1213CRM-v6 (rev. 12/2021)

Training Substitution Form, A450-1213TR_SUB-v1 (rev. 10/2021)

Training Verification Form, A450-1213TR-vs1 (eff. 5/2022)

Experience Verification Form A450-1213EXP-v2 (eff. 7/2022)

Barber-Cosmetology Universal License App A450-1213ULR-v1 (eff. 7/2023)

FORMS (18VAC41-50)

~~Tattooer Examination & License Application, A425-1231EXLIC (eff. 9/2011)~~

~~Tattoo Training & Experience Verification Form, A425-12TATTREXP (eff. 9/2011)~~

~~Tattooing Apprenticeship Sponsor Application, A425-12TATSPON (eff. 9/2011)~~

~~Tattooer Apprenticeship Certification Application, A425-1234TAC (eff. 9/2011)~~

~~Tattoo Apprenticeship Completion Form, A425-12TAC (eff. 9/2011)~~

~~Tattoo Client Disclosure Form, A425-12DIS, A425-12TDIS (eff. 9/2011)~~

~~Limited Term Tattooer License Application, A450-1233LIC-v8 (rev. 9/2016)~~

~~Limited Term Tattoo Parlor License Application, A450-1235LIC-v5 (rev. 9/2016)~~

~~Permanent Cosmetic Tattooer Examination & License Application, A425-1236EXLIC (eff. 9/2011)~~

~~Master Permanent Cosmetic Tattooer Examination & License Application, A425-1237EXLIC (eff. 9/2011)~~

~~License by Endorsement Application, A450-1213END-v9 (rev. 9/2016)~~

~~Training & Experience Verification Form, A425-1213TREXP (eff. 9/2011)~~

~~Salon, Shop, Spa & Parlor License/Reinstatement Application, A450-1213BUS-v8 (rev. 9/2016)~~

~~Licensure Fee Notice, A450-1213FEE-v6 (rev. 9/2016)~~

~~Instructor Certification Application, A450-1213INST-v7 (rev. 9/2016)~~

~~Individuals - Reinstatement Application, A450-1213REI-v8 (rev. 9/2016)~~

~~School License Application, A450-1213SCHL-v9 (rev. 9/2016)~~

~~School Reinstatement Application, A450-1213SCHL-REIN-v2 (rev. 9/2016)~~

Tattooer Examination & License Application, A450-1231EXLIC-v16 (eff. 5/2022)

Training Verification Form, A450-1213TR-vs1 (eff. 5/2022)

Tattooing Apprenticeship Sponsor Application, A450-12TATSPON-v5 (eff. 7/2015)

Tattooer Apprenticeship Certification Application, A450-TAT_SOA-v2 (eff. 3/2015)

Tattoo Apprenticeship Completion Form, A450-12TAC-v8 (eff. 1/2020)

Tattoo Client Disclosure Form, A450-12TDIS-v3 (eff. 1/2020)

Limited Term Tattooer License Application, A450-1233LIC-v12 (rev. 9/2022)

Limited Term Tattoo Parlor License Application, A450-1235LIC-v9 (rev. 9/2022)

Permanent Cosmetic Tattooer Examination & License Application, A450-1236EXLIC-v15 (eff. 5/2022)

Master Permanent Cosmetic Tattooer Examination & License Application, A450-1237EXLIC-v13 (eff. 5/2022)

License by Endorsement Application, A450-1213END-v18 (rev. 9/2022)

Body Piercing, Tattoo, Perm Cos Tattoo Experience Verification Form, A450-12BPTATT_EXP-v2 (eff. 7/2022)

Body Piercing Salon/Tattooing Parlor License/Reinstatement Application, A450-12TATBP_BUS-v4 (rev. 9/2022)

Licensure Fee Notice, A450-1213FEE-v11 (rev. 9/2022)

Instructor Certification Application, A450-1213INST-vs17 (rev. 10/2022)

Individuals - Reinstatement Application, A450-1213REI-v13 (rev. 9/2022)

School License Application, A450-1213SCHL-v18 (rev. 5/2023)

School Reinstatement Application, A450-1213SCHL-REIN-v9 (rev. 9/2022)

Tattoo-Body Piercing Universal App A450-1231-41ULR-v1 (rev. 7/2023)

FORMS (18VAC41-60)

~~Body Piercer Examination & License Application, A425-1241EXLIC (eff. 9/2011)~~

~~Body Piercing Training & Experience Verification Form, A425-12BPTREXP (eff. 9/2011)~~

~~Body Piercing Apprenticeship Sponsor Application, A425-12BPSPON (eff. 9/2011)~~

~~Body Piercing Apprentice Certification Application, A425-1244BPAC (eff. 9/2011)~~

~~Body Piercing Apprenticeship Completion Form, A425-12BPAC (eff. 9/2011)~~

~~Body Piercing Client Disclosure Form, A425-12BPDIS (eff. 9/2011)~~

~~Body Piercer Ear Only License Application, A450-1245LIC-v6 (rev. 9/2016)~~

~~License by Endorsement Application, A450-1213END-v9 (rev. 9/2016)~~

~~Training & Experience Verification Form, A425-1213TREXP (eff. 9/2011)~~

~~Salon, Shop, Spa & Parlor License/Reinstatement Application, A450-1213BUS-v8 (rev. 9/2016)~~

~~Licensure Fee Notice, A450-1213FEE-v6 (rev. 9/2016)~~

~~Individuals - Reinstatement Application, A450-1213REI-v8 (rev. 9/2016)~~

Body Piercer Examination & License Application, A450-1241EXLIC-v15 (eff. 5/2022)

Body-Piercing Apprenticeship Sponsor Application, A450-12BPSPON-v5 (eff. 7/2015)

Body-Piercing Apprentice Certification Application, A450-BP_SOA-v2 (eff. 3/2015)

Body-Piercing Apprenticeship Completion Form, A450-12BPAC-v8 (eff. 1/2020)

Body-Piercing Client Disclosure Form, A450-12BPDIS-v2 (eff. 4/2013)

Body Piercer Ear Only License Application, A450-1245LIC-v9 (rev. 9/2022)

License by Endorsement Application, A450-1213END-v18 (rev. 9/2022)

Body Piercing, Tattoo, Perm Cos Tattoo Experience Verification Form, A450-12BPTATT_EXP-v2 (eff. 7/2022)

Body Piercing Salon/Tattooing Parlor License/Reinstatement Application, A450-12TATBP_BUS-v~~8~~4 (rev. 9/2022)

Licensure Fee Notice, A450-1213FEE-v11 (rev. 9/2022)

Individuals - Reinstatement Application, A450-1213REI-v13 (rev. 9/2022)

Tattoo-Body Piercing Universal App A450-1231-41ULR-v1 (rev. 7/2023)

FORMS (18VAC41-70)

~~Esthetician – Esthetics Instructor Examination & License Application, A450-1261_62EXLIC-v13 (eff. 1/2017)~~

~~Master Esthetician – Master Esthetics Instructor Examination & License Application, A450-1264_65EXLIC-v14 (eff. 1/2017)~~

~~Temporary Permit Application, A450-1213TEMP-v2 (eff. 1/2017)~~

~~License by Endorsement Application, A450-1213END-v10 (eff. 1/2017)~~

~~Training & Experience Verification Form, A450-1213TREXP-v5 (eff. 1/2017)~~

~~Individual - Reinstatement Application, A450-1213REI-v9 (eff. 1/2017)~~

~~Salon, Shop, Spa & Parlor License/Reinstatement Application A450-1213BUS-v9 (eff. 1/2017)~~

~~Salon, Shop & Spa Self Inspection Form, A450-1213_SSS_INSP-v3 (eff. 5/2016)~~

~~Instructor Certification Application, A450-1213INST-v8 (eff. 1/2017)~~

~~School License Application, A450-1213SCHL-v10 (eff. 1/2017)~~

~~School Reinstatement Application, A450-1213SCHL_REI-v3 (eff. 1/2017)~~

~~School Self Inspection Form, A450-1213SCH_INSP-v3 (eff. 5/2016)~~

~~Licensure Fee Notice, A450-1213FEE-v6 (rev. 9/2016)~~

~~Change of Responsible Management, A450-1213CRM (eff. 1/2017)~~

Esthetician – Esthetics Instructor Examination & License Application, A450-1261_62EXLIC-v17 (eff. 5/2022)

Master Esthetician – Master Esthetics Instructor Examination & License Application, A450-1264_65EXLIC-v18 (eff. 5/2022)

Temporary Permit Application, A450-1213TEMP-v3 (eff. 12/2021)

License by Endorsement Application, A450-1213END-v18 (eff. /2022)

Training Verification Form, A450-1213TR-vs1 (eff. 5/2022)

Individual - Reinstatement Application, A450-1213REI-v13 (eff. 9/2022)

Salon, Shop, Spa & Parlor License/Reinstatement Application A450-1213BUS-v16 (eff. 9/2022)

Salon, Shop & Spa Self Inspection Form, A450-1213_SSS_INSP-vs2 (eff. 5/2016)

Instructor Certification Application, A450-1213INST-v17 (eff. 10/2022)

School License Application, A450-1213SCHL-v18 (eff. 5/2023)

School Reinstatement Application, A450-1213SCHL_REI-v9 (eff. 9/2022)

School Self Inspection Form, A450-1213SCH_INSP-vs5 (eff. 1/2022)

Licensure Fee Notice, A450-1213FEE-v~~6~~11 (rev. 2022)

Change of Responsible Management, A450-1213CRM-v6 (eff. 12/2021)

Experience Verification Form A450-1261_64EXP-v2 (eff. 2/2023)

Esthetics-Master Esthetics Universal License App A450-1261-65ULR-v1 (eff. 7/2023)

VA.R. Doc. No. R23-7603; Filed July 19, 2023, 8:04 a.m.

BOARD OF DENTISTRY

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Titles of Regulations: **18VAC60-21. Regulations Governing the Practice of Dentistry.**

18VAC60-25. Regulations Governing the Practice of Dental Hygiene.

18VAC60-30. Regulations Governing the Practice of Dental Assistants.

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

FORMS (18VAC60-21)

~~Instructions for a Faculty License to Teach Dentistry (rev. 7/2021)~~

~~Instructions for Registration for Volunteer Dental Practice (rev. 8/2020)~~

~~Instructions for a Temporary Resident's License (rev. 7/2021)~~

~~Instructions for a Temporary Dental Permit (rev. 7/2021)~~

~~Application for a Permit to Administer Moderate Sedation (rev. 2/2022)~~

~~Instructions for a Permit to Administer Deep Sedation/General Anesthesia (rev. 2/2022)~~

~~Instructions for Reinstatement of a Permit to Administer Moderate Sedation or Deep Sedation/General Anesthesia (rev. 2/2022)~~

~~Instructions for Certification to Perform Cosmetic Procedures (rev. 8/2020)~~

~~Instructions for Reinstatement of Certification to Perform Cosmetic Procedures (rev. 8/2020)~~

~~Instructions for Restricted Volunteer Dental License (rev. 7/2021)~~

~~Instructions for Oral and Maxillofacial Surgeon Registration of Practice (rev. 2/2022)~~

~~Instructions for Reinstatement of Oral and Maxillofacial Surgeon Registration of Practice (rev. 2/2022)~~

~~Instructions for Registration of a Mobile Dental Facility or Portable Dental Operation (rev. 8/2020)~~

~~Instructions for Reactivation of Dental License (rev. 7/2021)~~

~~Instructions for Reinstatement of Dental License (rev. 7/2021)~~

~~Application Instructions for a Dental License (rev. 2/2022)~~

Application for Dental License (rev. 6/2023)

Application for Reinstatement of Dental License (rev. 6/2023)

Application for Reactivation of Dental License (rev. 6/2023)

Application for Temporary Dental Permit (rev. 6/2023)

Application for Faculty Dental Licensure (rev. 6/2023)

Application for Registration for Volunteer Dental License (rev. 6/2023)

Temporary Resident Application (rev. 6/2023)

Application for Restricted Volunteer Dental License (rev. 6/2023)

Moderate Sedation Application (rev. 6/2023)

Deep Sedation/General Anesthesia Application (rev. 6/2023)

Reinstatement for Moderate Sedation or Deep Sedation/General Anesthesia (rev. 6/2023)

Foreign Faculty Application (rev. 6/2023)

Application for OMS Registration (rev. 6/2023)

Application for OMS Registration Reinstatement (rev. 6/2023)

Application for Certification to Perform Cosmetic Procedures (rev. 6/2023)

Application for Reinstatement of Certification to Perform Cosmetic Procedures (rev. 6/2023)

Mobile or Portable Facility Application (rev. 6/2023)

Additional Location Pre-Inspection Survey Form (rev. 6/2023)

FORMS (18VAC60-25)

~~Application Instructions for Dental Hygienists (rev. 2/2022)~~

~~Instructions for Registration for Dental Hygiene Volunteer Practice (rev. 7/2021)~~

~~Instructions for Reactivation of Dental Hygienist License (rev. 7/2021)~~

~~Instructions for Reinstatement of Dental Hygiene License (rev. 7/2021)~~

~~Instructions for Restricted Volunteer Dental Hygiene License (rev. 7/2021)~~

~~Instructions for a Faculty License to Teach Dental Hygiene (rev. 7/2021)~~

~~Instructions for a Temporary Dental Hygiene Permit (rev. 7/2021)~~

Application for Licensure as Dental Hygienist (rev. 6/2023)

Application for Reinstatement of Dental Hygienist License (rev. 6/2023)

Application for Registration for Dental Hygiene Volunteer Practice (rev. 6/2023)

Application for Reactivation of Dental Hygienist License (rev. 6/2023)

Application for Restricted Volunteer Dental Hygienist License (rev. 6/2023)

Application for Faculty Licensure Dental Hygiene (rev. 6/2023)

Application for Temporary Dental Hygiene Permit (rev. 6/2023)

Continuing Education (CE) Credit Form for Volunteer Practice (rev. 5/2019)

FORMS (18VAC60-30)

~~Instructions for Registration of Dental Assistant II (rev. 2/2022)~~

~~Instructions for Reactivation of Dental Assistant II Registration (rev. 7/2021)~~

~~Instructions for Reinstatement of Dental Assistant II Registration (rev. 7/2021)~~

Application for Registration as Dental Assistant II (rev. 6/2023)

Application for Reactivation as Dental Assistant II (rev. 6/2023)

Application for Reinstatement as Dental Assistant II (rev. 6/2023)

VA.R. Doc. No. R23-7638; Filed July 19, 2023, 2:56 p.m.

BOARD OF VETERINARY MEDICINE

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

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

Agency Contact: Erin Barrett, Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23238, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

FORMS

Instructions for Completing an Application to Practice as a Veterinarian in Virginia (rev. 6/2020)

Instructions for Completing an Application to Practice as a Veterinary Technician in Virginia (rev. 6/2020)

Application for Registration of a Veterinary Establishment and Changes/Updates to a Registered Establishment (rev. 6/2020)

Change of Veterinarian-in-Charge Form (rev. 6/2020)

~~Veterinary Establishment Inspection Report (rev. 10/2019)~~

Veterinary Establishment Inspection Report (rev. 1/2021)

Veterinary Establishment Closure Form (rev. 6/2020)

Employment Verification (rev. 6/2020)

Name/Address Change Form (rev. 6/2020)

Request for Verification of a Virginia License (rev. 6/2020)

Application for Registration for Volunteer Practice (rev. 6/2020)

Sponsor Certification for Volunteer Registration (rev. 6/2020)

Continuing Education (CE) Credit Form for Volunteer Practice (rev. 6/2020)

Instructions/Checklist for Completing an Application for Registration to Practice as an Equine Dental Technician (rev. 3/2023)

Instructions for Reinstating an Expired Registration to Practice as an Equine Dental Technician (rev. 3/2023)

Instructions for Reinstating an Expired License to Practice (Veterinarian or Veterinary Technician) (rev. 3/2023)

Instructions for Reactivating an Inactive License to Practice (Veterinarian or Veterinary Technician) (rev. 3/2023)

Recommendation for Registration as an Equine Dental Technician (rev. 6/2020)

Instructions for Reinstating a License to Practice Following Discipline (Veterinarian or Veterinary Technician) (rev. 3/2023)

VA.R. Doc. No. R23-7642; Filed July 23, 2023, 1:54 p.m.

TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Final Regulation

REGISTRAR'S NOTICE: The Department of State Police is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 6 of the Code of Virginia, which exempts agency action relating to customary military, naval, or police functions.

Title of Regulation: **19VAC30-20. Motor Carrier Safety Regulations (amending 19VAC30-20-80).**

Statutory Authority: § 52-8.4 of the Code of Virginia; 49 CFR Part 390.

Effective Date: October 1, 2023.

Agency Contact: Captain Sean Stewart, Safety Officer, Safety Division, Department of State Police, P.O. Box 27472, Richmond, VA 23261, telephone (804) 278-5303, or email sean.stewart@vsp.virginia.gov.

Summary:

The amendment updates the effective date of the Federal Motor Carrier Safety Regulations promulgated by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration that are incorporated for compliance and enforcement purposes.

19VAC30-20-80. Compliance.

Every person and commercial motor vehicle subject to this chapter operating in interstate or intrastate commerce within or through the Commonwealth of Virginia shall comply with the Federal Motor Carrier Safety Regulations promulgated by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, with amendments promulgated and in effect as of October 1, ~~2022~~ 2023, pursuant to the United States Motor Carrier Safety Act found in 49 CFR Parts 366, 370 through 376, 379, 380 Subparts E and F, 382, 385, 386 Subpart G, 387, 390 through 397, and 399, which are incorporated in this chapter by reference, with certain exceptions.

VA.R. Doc. No. R23-7635; Filed July 25, 2023, 9:13 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Proposed Regulation

Title of Regulation: **22VAC40-705. Child Protective Services (amending 22VAC40-705-160, 22VAC40-705-170).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 13, 2023.

Agency Contact: Kristen Eckstein, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7897, or email kristen.eckstein@dss.virginia.gov.

Basis: The State Board of Social Services has legal authority pursuant to § 63.2-217 of the Code of Virginia to adopt regulations as necessary or desirable to carry out the purpose of Title 63.2 of the Code of Virginia. Under § 63.2-203 of the Code of Virginia, the Commissioner of the Department of Social Services is charged with enforcing regulations adopted by the board. Section 63.2-1515 of the Code of Virginia requires that the board prescribe regulations regarding the Central Registry System (CRS).

Purpose: The regulatory change is essential to the health, safety, and welfare of citizens, as it will (i) expedite the application and hiring processes so that child care workers can provide services and care as quickly as possible and (ii) allow working parents to ensure their families' financial stability and well-being. In addition, children's residential facilities and foster care placements provide for the care and well-being of vulnerable children, and delays in CRS processing result in delays in staffing and placements for these children. This is particularly important now, since Virginia is experiencing a critical shortage of foster homes and other placements for children.

The Central Registry Unit (CRU) within the Office of Background Investigations processes requests for all children's programs licensed in Virginia, as well as out of state and international requests for applicants who may have previously lived in Virginia. Section 63.2-1515 of the Code of Virginia mandates that searches be completed within 10 business days of receiving the request. The CRS contains names of individuals identified as abusers or neglectors in founded child abuse and neglect investigations conducted in Virginia. Findings are made by Child Protective Services staff in local departments of social services and are maintained by the Department of Social Services (DSS). The volume of search requests varies from 750 per day to 1,600 per day during peak season, which runs late April through September. Virginia is one of 13 states that requires notarization of an applicant's consent to a Central Registry search. Child care providers mail the applicant's notarized authorization for the Central Registry request, along with payment, to the CRU to conduct the search. The notary requirement slows down this process and places a burden on applicants, who must print the application form, locate and travel to a notary, and give the notarized form to the child care provider.

The high volume of daily requests, manual processing, and staffing requirements can cause delays that affect the ability of the CRU to meet the mandatory timeframe of 10 days to process requests. In an effort to resolve these issues and expedite this process, DSS is currently implementing the new Virginia Enterprise Licensing Application (VELA) public-facing portal, which will eliminate the need for the manual submission of documents, manual data entry, and mailing of forms and payments. The requirement that an applicant's consent to a Central Registry search be notarized remains a regulatory requirement that will be an impediment to facilitating and expediting this process in order to better serve the citizens of the Commonwealth and meet the mandatory timeframe of 10 days to process requests.

Making the application process less onerous will allow qualified individuals to be approved more quickly so that they can begin working or volunteering with children sooner, allow child care providers to hire staff more quickly, and allow volunteer organizations to bring on volunteers more quickly. This is particularly important in light of current shortages of affordable, accessible child care as well as staffing shortages in the Commonwealth. Ensuring that families have access to child care and that facilities are well-staffed is essential to the financial well-being of families and the health, safety, and welfare of children in care. In addition, Virginia is currently

experiencing a critical shortage of foster homes. Making the CRS process faster and easier will alleviate delays in staffing and placements for children's residential facilities and foster care placements.

Substance: The proposed amendments change (i) "the individual's notarized consent" to "the individual's signed consent" and (ii) "notarized signature" to "signature."

Issues: The primary advantage of this regulatory action to the public is the ability to facilitate and expedite the hiring of staff who provide services or care to children. During the COVID-19 pandemic, many child care facilities closed and others struggled to maintain the required staffing levels to provide adequate care. Hiring staff has continued to be challenging as the demand for child care has increased. Eliminating the notary requirement in this regulation removes an inconvenient, burdensome, and time-consuming element of the application process for individuals who wish to provide care for or services to children and would allow providers to get staff into place more quickly. Others who wish to provide services or care to children, such as volunteers, foster parents, and those who work in child placing agencies, would benefit similarly from not having to meet the notary requirement. Advantages to the agency include the improvement of customer service to child care providers and staff and others who provide services and care to children by offering them an easier and less cumbersome process. This process would also be more efficient for agency staff who process applications. There are no disadvantages to the public or the Commonwealth.

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 § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented represents DPB's best estimate of these potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. The State Board of Social Services (Board) proposes to implement a permanent regulatory change to replace an emergency regulation[2] that removed the requirement that an individual's consent for a search of its Central Registry System (CRS) be notarized.

Background. The Department of Social Services (DSS) searches the CRS at the request of individuals who seek to provide services or care to children through employment, foster care, adoption, or volunteer opportunities to determine if those individuals have a founded case of child abuse or neglect. These searches are performed when a child care provider mails the applicant's notarized authorization for a search of the CRS, along with payment to DSS. However, DSS states that the notarization requirement delays the application process and places a burden on applicants, who must print the application form, locate and travel to a notary, and then give the notarized form to the child care provider. As a result, the Board removed the notarization requirement effective September 2, 2022, through an emergency regulation. This proposed change will make the emergency regulation permanent.

Estimated Benefits and Costs. DSS performs approximately 180,000 searches of its CRS annually for background information on prospective employees and volunteers involved in children's services or care. Under the proposed changes, their consent to a CRS search would no longer have to be notarized. As a result, affected individuals would no longer need to be concerned with finding a notary public, with the time and travel costs involved in getting in front of a notary public, and with a potential fee[3] that a notary may require for services. Given the volume of annual searches conducted, this change may provide substantial savings mainly in terms of an of applicant's time and travel expenses. For example, an hour of time saved over 180,000 cases would translate to 87 full-time employment positions statewide in a given year.[4]

Additionally, even though the notarization can be secured relatively quickly, it would not be unusual to see delays in the application process and placement of children by a few days due to scheduling issues. Thus, parents, employees, volunteers, employers, and volunteer organizations may benefit from an expedited application process. DSS states that this benefit is particularly important now because Virginia is experiencing a critical shortage of foster homes and other placements for children. On the other hand, removing the notarization requirement may make the applicant's consent more susceptible to tampering, though such an action would be illegal.

Businesses and Other Entities Affected. According to DSS, 180,000 CRS search requests originate from more than 6,000 licensed childcare providers and an unknown number of organizations that have volunteers who work with children, including churches, schools, sporting organizations, scouting programs, and many others. None of the affected entities appear to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[5] An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted, removing the notarization requirement is expected to produce savings for the applicants in terms of time, travel, and possible fee expenses and expedite the application process. Although some notaries may be charging a small fee for services, a notarization almost always can be secured at one's bank or financial institution for free. Thus, no adverse impact appears to be indicated.

Small Businesses[6] Affected.[7] The proposed amendments do not adversely affect small businesses.

Localities[8] Affected.[9] The proposed amendments do not introduce costs for local governments.

Projected Impact on Employment. The removal of the notary requirement is expected to free some time for the applicants,

but whether such time savings would have any impact on employment is unknown.

Effects on the Use and Value of Private Property. The proposed changes are not expected to affect the use and value of private property or the real estate development costs.

[1]Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2] https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9618

[3]DSS states that a notary official may charge an applicant up to $5 per request.

[4]86.5=180,000 hours/(40 hours a week*52 weeks)

[5]Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[6]Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[7]If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[8]"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[9]Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments remove the notary requirement for the consent an individual signs requesting a search of the Central Registry System (CRS) to determine that an individual has no founded case of child abuse or neglect. The purpose of the amendments is to expedite searches by the Central Virginia Child Abuse and Neglect Central Registry Unit of CRS to make it less burdensome for individuals who wish to provide services or care to children through employment, foster care, adoption, or volunteer opportunities.

22VAC40-705-160. Releasing information.

A. In the following instances of mandatory disclosure the local department shall release child protective services information. The local department may do so without any written release.

1. Report to attorney for the Commonwealth and law enforcement pursuant to § 63.2-1503 D of the Code of Virginia.

2. Report to the regional medical examiner's office pursuant to § 63.2-1503 E of the Code of Virginia.

3. Any individual, including an individual against whom allegations of child abuse or neglect were made, may exercise his rights under the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq. of the Code of Virginia) to access personal information related to himself that is contained in the case record including, with the individual's ~~notarized~~ signed consent, a search of the Central Registry.

4. When the material requested includes personal information about other individuals, the local department shall be afforded a reasonable time in which to redact those parts of the record relating to other individuals.

5. Pursuant to the Child Abuse Prevention and Treatment Act, as amended (42 USC § 5101 et seq.), and federal regulations (45 CFR Part 1340), the local department shall provide case-specific information about child abuse and neglect reports and investigations to citizen review panels when requested.

6. Pursuant to the Child Abuse Prevention and Treatment Act, as amended (42 USC § 5101 et seq.), the department shall develop guidelines to allow for public disclosure in instances of child fatality or near fatality.

7. An individual's right to access information under the Government Data Collection and Dissemination Practices Act is stayed during criminal prosecution pursuant to § 63.2-1526 C of the Code of Virginia.

8. The local department shall disclose and release to the United States Armed Forces Family Advocacy Program child protective services information as required pursuant to 22VAC40-705-140.

9. Child protective services shall, on request by the Division of Child Support Enforcement, supply information pursuant to § 63.2-103 of the Code of Virginia.

10. The local department shall release child protective services information to a court appointed special advocate pursuant to § 9.1-156 A of the Code of Virginia.

11. The local department shall release child protective services information to a court-appointed guardian ad litem pursuant to § 16.1-266 G of the Code of Virginia.

12. In any case properly before a court having jurisdiction, if the court orders the local department to disclose information from a child abuse or neglect case record, the local department must either comply with the order if permitted under federal and state law or appeal the order if such disclosure is contrary to federal and state law.

B. The local department may use discretion in disclosing or releasing child protective services case record information, investigative and ongoing services to parties having a legitimate interest when the local department deems disclosure to be in the best interest of the child. The local department may disclose such information without a court order and without a written release pursuant to § 63.2-105 of the Code of Virginia.

C. Prior to disclosing information to any individuals or organizations, and to be consistent with § 63.2-105 of the Code of Virginia, the local department must consider the factors described in subdivisions 1, 2, and 3 of this subsection as some of the factors necessary to determine whether a person has a legitimate interest and the disclosure of information is in the best interest of the child:

1. The information will be used only for the purpose for which it is made available;

2. Such purpose shall be related to the goal of child protective or rehabilitative services; and

3. The confidential character of the information will be preserved to the greatest extent possible.

D. In cases of abuse or neglect in which the person who is the subject of the founded report or complaint has appealed the finding and has submitted a written request for the local department's records in accordance with § 63.2-1526 of the Code of Virginia, the local department shall not disclose or release to such person the following information: (i) the name of the person reporting incidents of child abuse or neglect; (ii) any information that may endanger the well-being of a child if such information or records are disclosed or released; (iii) information that pertains to the identity of a collateral witness or any other person if such disclosure may endanger life or safety; or (iv) information that is otherwise prohibited from being disclosed or released by state or federal law or regulation.

E. In all complaints or reports that are being investigated jointly with law enforcement, the local department shall release child protective services information in accordance with the following:

1. Pursuant to § 63.2-1516.1 B of the Code of Virginia, no information in the possession of the local department from such joint investigation shall be released by the local department prior to the conclusion of the criminal investigation except as authorized by the investigating law-enforcement officer, the law-enforcement officer's supervisor, or the local attorney for the Commonwealth.

2. Pursuant to § 63.2-1503 D of the Code of Virginia, the local department shall provide the attorney for the Commonwealth and the local law-enforcement agency with the information and records of the local department related to the investigation of the complaint, including records related to any complaints of abuse or neglect involving the victim or the alleged abuser or neglector, and information or records pertaining to the identity of the person who reported the complaint of abuse or neglect.

F. Pursuant to §§ 63.2-1505 B and 63.2-1506 B of the Code of Virginia, the local department, upon request, must disclose to the child's parent or guardian the location of the child, provided that:

1. The investigation or family assessment has not been completed;

2. The parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect;

3. The parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody;

4. The local department is not aware of any court order and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and

5. Disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.

22VAC40-705-170. Access to Central Registry.

A. The department will complete a search of the Central Registry upon request by a local department, upon receipt of a ~~notarized~~ signature of the individual whose name is being searched authorizing release of such information or a court order specifying a search of the Central Registry.

B. When the name being searched is found in the Central Registry, the department shall contact the local department responsible for the investigation to verify the information.

VA.R. Doc. No. R23-7198; Filed July 24, 2023, 9:04 a.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

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

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

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: State Plan for Independent Living.

Public Comment Deadline: September 13, 2023.

Effective Date: October 1, 2023.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

STATE BOARD OF EDUCATION

Titles of Documents: Board of Education Approved Courses to Satisfy Graduation Requirements for the Standard and Advanced Studies Diplomas in Virginia Public Schools.

2023-2024 Board of Education Approved Industry Certifications, Occupational Competency Assessments, and Professional Licenses.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

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

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Titles of Documents: Aiding and Abetting Unlicensed Practice.

Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

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

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Title of Document: Approved Optician-Related Technical Instruction.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

Agency Contact: Kelley Smith, Executive Director, Board for Hearing Aid Specialists and Opticians, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email barbercosmo@dpor.virginia.gov.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Document: Virginia Telecommunication Initiative 2024 Program Guidelines and Criteria.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: Service Authorization Form - Weight Loss Management.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

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

STATE BOARD OF SOCIAL SERVICES

Title of Document: Supplemental Nutrition Assistance Program Manual Volume V.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

Agency Contact: Nikki Clarke Callaghan, Legislation, Regulations, and Guidance Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7943, or email nikki.clarke@dss.virginia.gov.

STATE WATER CONTROL BOARD

Title of Document: Accelerated Release of Nonpoint Source Nutrient Credits for Stream Restoration Projects.

Public Comment Deadline: September 13, 2023.

Effective Date: September 14, 2023.

Agency Contact: Tyler Monteith, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23219, telephone (804) 489-1809, or email tyler.monteith@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Carysbrook Holdings LLC

An enforcement action has been proposed for Carysbrook Holdings LLC for alleged violations in Fluvanna County, Virginia. The Department of Environmental Quality (DEQ) proposes to issue a consent order with penalty to Carysbrook Holdings LLC to address noncompliance with State Water Control Law. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The DEQ contact will accept comments from August 14, 2023, through September 12, 2023.

Contact Information: Celeste Horton, Senior Enforcement Specialist, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, FAX (804) 698-4178, or email celeste.horton@deq.virginia.gov.

Proposed Enforcement Action for VA Powhatan 60 LLC

An enforcement action has been proposed for VA Powhatan 60 LLC for violations of State Water Control Law and regulations at the O'Reilly and Starbucks property located in Powhatan County, Virginia. The proposed order is available from the Department of Environmental Quality contact or at https://www.deq.virginia.gov/permits/public-notices/enforcement-orders. The staff contact will accept written comments from August 14, 2023, through September 13, 2023.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, or email matthew.richardson@deq.virginia.gov.

FORENSIC SCIENCE BOARD

Approved Breath Alcohol Testing Devices

This list of approved breath alcohol testing devices replaces the list published in the Virginia Register Volume 35, Issue 13, February 18, 2019.

Statutory Authority: §§ 9.1-1101, 18.2-267, and 18.2-268.9 of the Code of Virginia.

In accordance with 6VAC40-20-90 of the Regulations for Breath Alcohol Testing and under the authority of the Code of Virginia, the following breath test device is approved for use in conducting breath tests:

The Intox EC/IR II with the Virginia test protocol, manufactured by Intoximeters, Inc., St. Louis, Missouri, utilizing an external printer.

In accordance with 6VAC40-20-100 of the Regulations for Breath Alcohol Testing and under the authority of the Code of Virginia, for evidential breath test devices:

Mouthpieces that are compatible with the specific testing device are approved as supplies for use in conducting breath tests on approved breath test devices.

In accordance with 6VAC40-20-180 of the Regulations for Breath Alcohol Testing and under the authority of the Code of Virginia, the following devices are approved for use as preliminary breath test devices:

1. The ALCO-SENSOR, ALCO-SENSOR II, ALCOSENSOR III, ALCO-SENSOR IV, ALCO-SENSOR VXL, ALCO-SENSOR FST, and ALCO-SENSOR FST (serial numbers 200,000 and higher) manufactured by Intoximeters, Inc., St Louis, Missouri.

2. The CMI SD 2 and INTOXILYZER 400PA, manufactured by Lion Laboratories, Barry, United Kingdom.

3. The CMI SD 5, INTOXILYZER 500, and INTOXILYZER 800 manufactured by CMI, Inc., Owensboro, Kentucky.

4. The LIFELOC PBA 3000*, LIFELOC FC10, LIFELOC FC10Plus, and LIFELOC FC20 manufactured by Lifeloc Inc., Wheat Ridge, Colorado. *When used in the direct sensing mode only.

5. The ALCOTEST 5510, ALCOTEST 5820, ALCOTEST 6000, ALCOTEST 6510, ALCOTEST 6810, ALCOTEST 6820, and ALCOTEST 7000 manufactured by Draeger Safety Diagnostics, Inc., Durango, Colorado.

6. The ALCOVISOR JUPITER, ALCOVISOR MERCURY, and MARK V manufactured by PAS Systems International, Inc., Fredericksburg, Virginia.

Contact Information: Amy Jenkins, Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, or email amy.jenkins@dfs.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Hospital Provider Manual Chapter V Available for Review and Comment

The draft Hospital Provider Manual Chapter V is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until August 24, 2023.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA

23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Draft Physician/Practitioner Provider Manual Chapters IV and V Available for Review and Comment

The draft Physician/Practitioner Provider Manual Chapters IV and V are now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until August 24, 2023.

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

Draft Provider Manual Supplement: Brain Injury Services Available for Review and Comment

The draft Provider Manual Supplement "Brain Injury Services Case Management" is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until August 20, 2023.

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

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

2023 Changes to VITA Supply Chain Management Templates, Tools, and Forms

Virginia Information Technologies Agency (VITA) has posted 2023 Changes to VITA Supply Chain Management (SCM) Templates, Tools, and Forms as a result of changes to Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) and policy at https://www.vita.virginia.gov/media/vitavirginiagov/supply-chain/pdf/General-Assembly-Procurement-FAQs.pdf.

Subjects include Chapters 291 and 293, 511, and 768 of the 2023 Acts of Assembly and small purchase procedures.

Contact Information: Joshua Heslinga, Policy Planning Manager III, Virginia Information Technologies Agency, 7325 Beaufont Springs Drive, Richmond, VA 23225, telephone (804) 551-2902, or email joshua.heslinga@vita.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at https://commonwealthcalendar.virginia.gov.

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

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

VIRGINIA LOTTERY BOARD

Title of Regulation: **11VAC5-80. Sports Betting Consumer Protection Program.**

Publication: 37:4 VA.R. 613-648 October 12, 2020.

Correction to Final Regulation:

Page 647, 11VAC5-80-120 C, column 2, line 4, beginning of line, replace "11VAC5-70-100" with "11VAC5-70-10"

VA.R. Doc. No. R21-6450; Filed August 1, 2023, 10:49 a.m.

* * *

Title of Regulation: **11VAC5-90. Casino Gaming.**

Publication: 38:13 VA.R. 1833-1977 February 14, 2022.

Correction to Final Regulation:

Page 1858, 11VAC5-90-90 H 1 b (2), after "license or"

insert "["

strike "period"

insert "permit]"

VA.R. Doc. No. R21-6662; Filed August 1, 2023, 10:58 a.m.