

**State of Board of Health
Agenda
December 1, 2016 – 9:00 a.m.
Perimeter Center – Boardroom 2**

Call to Order and Welcome	Bruce Edwards, Chair
Pledge of Allegiance	Faye Prichard
Introductions	Mr. Edwards
Review of Agenda	Joseph Hilbert Director of Governmental and Regulatory Affairs
Approval of September 15, 2016 Minutes	Mr. Edwards
Approval of October 24, 2016 Minutes	Mr. Edwards
Commissioner’s Report	Marissa Levine, MD, MPH, FAAFP State Health Commissioner
Abortion Facility Licensure Status Report	Erik Bodin, Director Office of Licensure and Certification
Regulatory Action Update	Mr. Hilbert
Break	
Public Comment Period	
<u>Board Action Item</u>	
Re-Designation of Regional EMS Councils	Gary Brown, Director Office of Emergency Medical Services
<u>Regulatory Action Item</u>	
Virginia Radiation Protection Regulations: Fee Schedule 12VAC5-490 (Proposed Amendments)	Steve Harrison, Director Office of Radiological Health
Working Lunch	
Kate Neuhausen, MD, MPH Chief Medical Officer, Virginia Department of Medical Assistance Services	
Lisa Wooten, MPH, BSN, RN Injury and Violence Prevention Program Supervisor Virginia Department of Health	
Addiction Recovery Treatment Services Waiver Program	

Regulatory Action Item

Regulations for Alternative Onsite Sewage Systems Allen Knapp, Director
12VAC5-613 Office of Environmental Health Services
(Fast Track Amendments)

Rules and Regulations Governing Campgrounds Mr. Knapp
12VAC5-450
(Proposed Amendments)

Member Reports

Other Business

Adjourn



COMMONWEALTH of VIRGINIA
Department of Health

Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

Gary R. Brown
Director

P. Scott Winston
Assistant Director

Office of Emergency Medical Services
1041 Technology Park Drive
Glen Allen, VA 23059-4500

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804-888-9100 (Main Office)
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October 31, 2016

Mr. Bruce W. Edwards, Chair
The State Board of Health
109 Governor Street
Richmond, VA 23219

RE: Regional EMS Council Designation

Dear Chairman Edwards:

Section 32.1-111.11 of the Code of Virginia states that, “The Board shall designate regional emergency medical services (EMS) councils which shall be authorized to receive and disburse public funds. Each council shall be charged with the development and implementation of an efficient and effective regional emergency medical services delivery system. The Board shall review those agencies that were the designated regional emergency medical services councils. The Board shall, in accordance with the standards established in its regulations, review and may renew or deny applications for such designations every three years. In its discretion, the Board may establish conditions for renewal of such designations or may solicit applications for designation as a regional emergency medical services council.”

In accordance with the Code section above, as well as 12VAC5-31-2340 N of the Virginia Emergency Medical Services Regulations governing Regional EMS Councils, the Virginia Office of EMS (OEMS) is providing the State Board of Health with information and recommendations for entities that have applied for re-designation as a Regional EMS Council in Virginia. The State Board of Health’s last designation of the regional EMS councils was on June 6, 2013.

Applications for designation of Regional EMS Councils were received by OEMS in October 2015. Upon verification of completed applications, OEMS forwarded those applications to Regional EMS Council designation site reviewers, to provide an objective evaluation of the information supplied by the applicant in the submitted materials, as well as conduct a review of the physical location of the applicant, and conduct interviews of the applicant’s organizational staff, officers and other system stakeholders.

The site review team consisted of the following individuals:

Randy P. Abernathy
Deputy Chief (retired), Hanover County Fire & EMS
Past Vice-Chair, State EMS Advisory Board

Robert A. Brown
Assistant Chief (retired), Albemarle County Fire & Rescue
Past Chair – Financial Assistance Review Committee
Past Training Coordinator, Peninsulas EMS Council

Maria Herbert
Business Consultant
MCH Consulting Services, LLC

Larry A. Oliver
Deputy Chief, Frederick County Fire and Rescue Department
Past Member, State EMS Advisory Board
Vice President, Lord Fairfax EMS Council

Christina J. Skinner
EMS Coordinator, Mary Washington Healthcare
Past Executive Director, Rappahannock EMS Council

Site reviews of all applicant entities were conducted, February 19 - July 12, 2016.

Based on the applications received, as well as the site reviewers' reports, the OEMS recommends continued designation of the Regional EMS Councils in the specified service areas as follows:

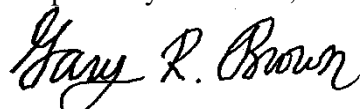
- Blue Ridge EMS Council – Service area including the counties of Amherst, Appomattox, Bedford and Campbell; and the cities of Bedford and Lynchburg.
- Central Shenandoah EMS Council – Service area including the counties of Augusta, Bath, Highland, Rockbridge, and Rockingham; and the cities of Buena Vista, Harrisonburg, Lexington, Staunton and Waynesboro.
- Lord Fairfax EMS Council – Service area including the counties of Clarke, Frederick, Page, Shenandoah and Warren; and the city of Winchester.
- Northern Virginia EMS Council – Service area including the counties of Arlington, Fairfax, Loudoun and Prince William; and the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.

- Old Dominion EMS Alliance – Service area including the counties of Amelia, Brunswick, Buckingham, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Halifax, Hanover, Henrico, Goochland, Greensville, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Surry, Sussex; the cities of Colonial Heights, Emporia, Hopewell, Petersburg and Richmond; and the towns of Ashland, Farmville, South Boston and South Hill.
- Peninsulas EMS Council – Service area including the counties of Essex, Gloucester, James City, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Westmoreland and York; and the cities Poquoson, Hampton, Newport News and Williamsburg.
- Rappahannock EMS Council – Service area including the counties of Caroline, Culpeper, Fauquier, King George, Orange, Rappahannock, Spotsylvania and Stafford; city of Fredericksburg; and the town of Colonial Beach.
- Southwest Virginia EMS Council – Service area including the counties of Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe; and the cities of Bristol, Galax and Norton.
- Thomas Jefferson EMS Council – Service area including the counties of Albemarle, Fluvanna, Greene, Louisa, Madison and Nelson; and the city of Charlottesville.
- Tidewater EMS Council – Service area including the counties of Accomack, Isle of Wight, Northampton, and Southampton; and the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach.
- Western Virginia EMS Council – Service area including the counties of Alleghany, Craig, Botetourt, Floyd, Franklin, Giles, Henry, Montgomery, Roanoke, Patrick, Pittsylvania and Pulaski; and the cities of Covington, Danville, Martinsville, Radford, Roanoke and Salem.

A map outlining the recommended service areas accompanies this letter. OEMS recommends a designation term of no less than three (3) years, commencing on January 1, 2017.

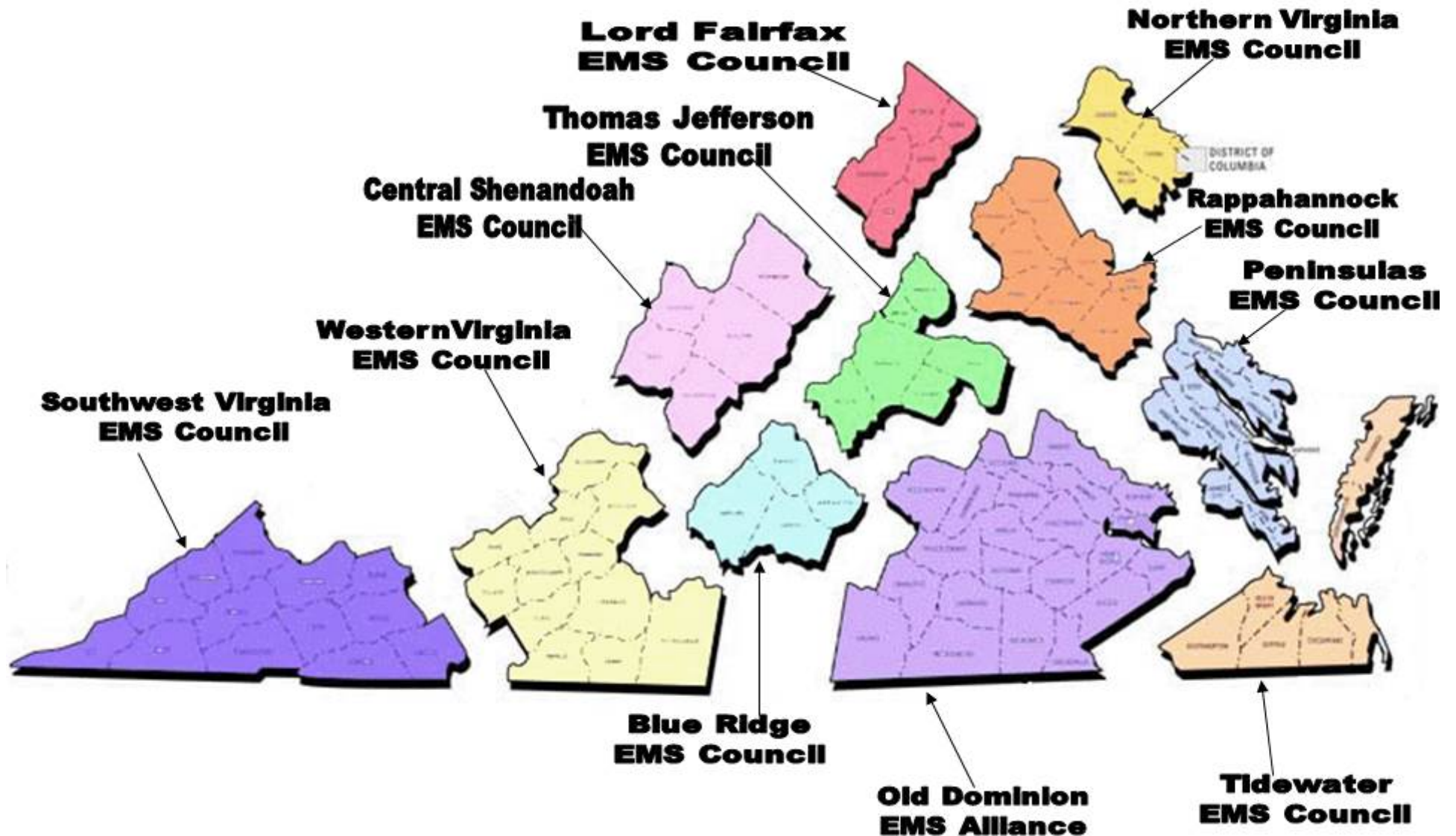
OEMS staff is prepared to answer any questions of the State Board of Health related to Regional EMS Council designation and anticipates the Board's approval of the recommendation as specified above.

Respectfully submitted,



Gary R. Brown, Director
Virginia Department of Health
Office of EMS

Designated Regional EMS Council Map 2016





COMMONWEALTH of VIRGINIA

Department of Health

P O BOX 2448
RICHMOND, VA 23218

Marissa J. Levine, MD, MPH, FAAFP
STATE HEALTH COMMISSIONER

TTY 7-1-1 OR
1-800-828-1120

MEMORANDUM

DATE: November 1, 2016

TO: Virginia State Board of Health

FROM: Steven A. Harrison, Director
Office of Radiological Health

SUBJECT: Proposal (TH02) to Establish 12VAC5-490-50, X-ray Private Inspector
Registration Fees

The Virginia Department of Health's (VDH) Office of Radiological Health (ORH) proposes to amend the existing *Virginia Radiation Protection Regulations: Fee Schedule* (12VAC5-490) in order to establish fees for the registration of individuals that inspect X-ray devices in the Commonwealth.

Purpose of Regulations

The purpose of the X-ray program is to protect the public from unnecessary radiation due to faulty X-ray equipment or substandard practices. Radiological Control Program regulations require the registration of individuals that inspect X-ray producing devices in the Commonwealth. The regulations, though, do not require fees for their initial registration or annual renewal. Registration fees for X-ray device Private Inspectors are charged in other states to help offset administrative costs associated with document collection, review, approval, the issuance of certificates and the maintenance of an up-to-date Private Inspector directory. A fee of \$150 per year per initial application and a fee of \$150 upon each annual renewal thereafter is proposed, which will help offset administrative costs that were once supported using General Funds allocated to ORH but which have since been abolished.

Upcoming Steps

The proposed amendment, upon approval by the Board of Health, will be submitted for executive branch review. Upon gubernatorial approval, the amendment will be posted on the Regulatory Town Hall, a notice will be sent to all registered Town Hall users, and it will be published in the Virginia Register of Regulations. A 60-day public comment period will commence, at the end of which the agency will consider the comments, make necessary adjustments, and then submit the final amendment for approval by the Board of Health at a future meeting.



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-490
Regulation title(s)	Virginia Radiation Protection Regulations: Fee Schedule
Action title	Establish X-ray Device Private Inspector Fees
Date this document prepared	October 30, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Virginia Department of Health's Office of Radiological Health (ORH) proposes to amend the Virginia Radiation Protection Regulations Fee Schedule (12VAC5-490) in order to establish fees for the initial registration and subsequent annual renewal of individuals that inspect X-ray devices in the Commonwealth.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

NOIRA - Notice of Intended Regulatory Action
ORH - Office of Radiological Health
VDH – Virginia Department of Health

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

These regulations are authorized by the Code of Virginia § 32.1-229.1, Inspections of X-ray machines required; Radiation Inspection Reports; fees; qualification of inspectors (effective July 1, 2016).

Section 32.1-229.1 authorizes the Board of Health to set annual registration fees for X-ray device Private Inspectors, not to exceed \$150.00 for such registration. Upon approval of the application, the Private Inspector will be included on the Commonwealth’s list of qualified X-ray machine inspector published pursuant to § 32.1-228.1.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Virginia Department of Health (VDH), ORH proposes to amend 12VAC5-490, Radiation Protection Fee Schedule, by establishing a new section 12VAC5-490-50, Private Inspector fees. Radiological Control Program regulations, which already require the registration of individuals that inspect X-ray producing devices in the Commonwealth, do not establish fees for their initial registration or annual renewal. Revenue recovery, as is the practice in other states using X-ray device Private Inspectors, will help offset administrative costs associated with document collection, review, approval, the issuance of certificates and the maintenance of an up-to-date Private Inspector directory.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

The Virginia Department of Health’s Office of Radiological Health (ORH) proposes to amend the Virginia Radiation Protection Regulations Fee Schedule (12VAC5-490) in order to establish fees for the

registration of individuals that inspect X-ray devices in the Commonwealth. Radiological Control Program regulations currently require the registration of individuals that inspect X-ray producing devices in the Commonwealth. The regulations, though, do not establish fees for their initial registration or annual renewal. Registration fees for X-ray device Private Inspectors are charged in other states to help offset administrative costs associated with document collection, review, approval, the issuance of certificates and the maintenance of an up-to-date Private Inspector directory. These fees will help offset such administrative costs that were once supported using General Funds allocated to ORH but which have since been abolished.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

1. Primary advantages and disadvantages to the public:
The primary advantage of this change to the public and the regulated community is that the establishment of Private Inspector fees will help offset administrative costs that were once paid using General Funds but which have since been abolished.

There are no disadvantages to the public in promulgating the proposed fee schedule.

2. Primary advantages and disadvantages to the agency and Commonwealth:
Approving the proposed fee structure will allow the Commonwealth to recover more of the costs associated with carrying out the legislative mandate.

There are no disadvantages to the agency and Commonwealth in promulgating the proposed fee schedule.

3. Other pertinent matters of interest to the regulated community:

Private inspectors of X-ray machines have an interest in ensuring that inspection fees by agency inspectors do not hurt their business by undercutting the private sector pricing, and Virginia Code § 32.1-229.2 requires the agency to establish inspection fees in such a manner so as to minimize competition with the private inspector while recovering costs.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements or no requirements that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that would be disproportionately affected by this action.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal; the costs and benefits of the alternatives stated in this background document or other alternatives; and, the potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or by mail, email, or fax to **Stan Orchel, Jr., Virginia Department of Health, Office of Radiological Health, 109 Governor Street, Room 733, Richmond, VA 23219; Office Phone: (804) 864-8170; Fax: (804) 864-8175; email: stan.orchel@vdh.virginia.gov**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>a) Fund Source: X-ray Machines, 0200. The X-ray program is not supported by state general funds, but rather by fees collected from x-ray device registrations and inspections. Program expenditures are primarily on-going and sometimes increase with salary adjustments such as cost of living raises.</p> <p>b) One-time: There are no one-time expenditures associated with this action. Ongoing: An X-ray program support technician and the X-ray Program Supervisor, compensated using X-ray finds, document the collection, review, approval, issuance of certificates and the maintenance of an up-to-date Private Inspector directory. Office support personnel that perform business functions (collections, deposits, Human Resources, procurement, etc.) are also paid in part from this</p>
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	fund source.
Projected cost of the new regulations or changes to existing regulations on localities.	\$0. There are no direct charges to the localities, which are exempt from registration fees for X-ray machines. Nevertheless these facilities are required to register their X-ray machines. The indirect cost would include postage and staff time (approximately 15 minutes) to complete the registration form.
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	This amendment affects individuals / businesses that provide X-ray machine inspection services in the Commonwealth.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are 174 X-ray machine Private Inspectors (as of July 2016) certified to perform inspections in the Commonwealth.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	a) The proposed fee for each individual registering or renewing their registration as a Private Inspector is \$150 per year. Reporting, recordkeeping, and other administrative costs for an individual or businesses to comply are limited to the costs of preparing, submitting and recording the payment of the fees. b) None.
Beneficial impact the regulation is designed to produce.	Ensure Virginia’s X-ray regulations meet current standards and practices.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Failure to update the existing regulation would be inconsistent with the agency's mission and the need to provide an adequate regulatory program that protects public health and safety with regard to the maintenance and operation of non-medical X-ray devices. VDH will consider recommendations from the Radiation Advisory Board and the regulated community for alternative means of meeting the intent of the regulations or additional requirements to address concerns that may be unique within the Commonwealth.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

1. Less stringent inspector registration and certification requirements may adversely impact the accuracy of the X-ray machine database.
2. The establishment of schedules or deadlines for compliance with registration and certification requirements is consistent with other states. Less stringent schedules or deadlines may result in the offering of services by inspectors that have not maintained their training, which may adversely affect x-ray machine inspection results and ultimately, patient care and safety.
3. The fee schedules were kept as simple as possible.
4. Establishment of performance standards in place of operational standards does not appear to be applicable to implementing a fee schedule.
5. Many of the entities this regulation applies to are small businesses. The Code of Virginia does not provide exemptions for the requirements of this regulation.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Not applicable.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Bob Gonsoulin	In a few months I likely will be retired and will ask to be placed on the X-ray inspectors list. It’s my opinion that the annual registration fee for X-ray inspectors be set at the maximum possible - \$150/year. I will gladly pay that fee for the	ORH concurs.

	privilege of being a private inspector at that time. To lower the fee below the maximum will cause great hardship on the Office of Radiological Health to meet its goal of collecting 100% of its expenses to run the program.	
Lee S. Anthony, Jr. - Physics Associates	I do not oppose the \$150.00 annual registration fee for x-ray device Private Inspectors. However, I also feel that the inspector charges for x-ray device inspections by State employees should be increased to be more in line with Private Inspector charges. The State inspection charges for in town inspections are more appropriate. However, when the State does not charge auto expense and travel time, charges for out of town work are below what they should be.	ORH concurs. The X-ray device inspection fee schedule appears in 12VAC5-490-20. Inspection fees. Changing those fees will have to be addressed using a separate regulatory action at a future date.
David E. Weimer	Question: Can one individual be certified on behalf of all inspectors conducting business for a company or organization?	No. each X-ray inspector must register and be certified in order to legally conduct X-ray device inspections in the Commonwealth.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed changes would not have a direct impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

Radiological Control Program regulations currently require the registration of individuals that inspect X-ray producing devices in the Commonwealth. The regulations, though, do not establish fees for their initial registration or annual renewal. Registration fees for X-ray device Private Inspectors are charged in other states to help offset administrative costs associated with document collection, review, approval; the issuance of certificates; and the maintenance of an up-to-date Private Inspector directory. A fee of \$150

per year is proposed, which will help offset administrative costs that were once supported using General Funds allocated to ORH but which have since been abolished.

The proposed new regulation follows:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
None.	12VAC5-490-50	None.	<p><u>12VAC5-490-50. Private Inspector registration fees.</u></p> <p><u>A. Individuals included on the Commonwealth's list of qualified inspectors of X-ray machines pursuant to 32.1-229.1.D.5 of the Code of Virginia, as of November 1, 2016, shall:</u></p> <p><u>1. Pay annually a registration renewal fee of \$150 to the Virginia Department of Health's X-ray Program in order to remain on the list as a qualified inspector of X-ray machines pursuant to 12VAC5-481-340.</u></p> <p><u>B. Individuals requesting to be placed on the Commonwealth's list of qualified inspectors of X-ray machines pursuant to 32.1-229.1.D.5 of the Code of Virginia shall:</u></p> <p><u>1. Request approval by the Office of Radiological Health to become a qualified inspector of X-ray machines pursuant to 12VAC5-481-340; and</u></p> <p><u>2. Pay an initial registration fee of \$150 to the Virginia Department of Health's X-ray Program, once approved; and</u></p> <p><u>3. Pay annually a registration renewal fee of \$150 to remain on the list as a qualified inspector of X-ray machines pursuant to 12VAC5-481-340. Statutory Authority § 32.1-229.1 of the Code of Virginia</u></p> <p>Intent/Rationale/Impact: This new regulation would establish annual registration and application change fees for individuals certified to inspect x-ray producing devices in the Commonwealth.</p> <p>Private X-ray device inspectors are already required to register with ORH, but ORH has not, in the past, been authorized to collect a fee to recover administrative costs. Administrative, personnel, travel and other expenses have increased since the fee schedule was last revised in 2009, and the use of general funds to support the X-ray program was eliminated in SFY16. Instituting these fees will help to sustain the X-ray program. The impact to Private Inspectors</p>

			operating in the Commonwealth will be the registration and/or any applicable inspection category change fees, and any costs associated with preparing and submitting that fee to ORH.
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12VAC5-490-50. Private Inspector registration fees.

- 1 A. Individuals included on the Commonwealth's list of qualified inspectors of X-ray machines
2 pursuant to 32.1-229.1.D.5 of the Code of Virginia, as of November 1, 2016, shall:
- 3 1. Pay annually a registration renewal fee of \$150 to the Virginia Department of Health's X-
4 ray Program in order to remain on the list as a qualified inspector of X-ray machines
5 pursuant to 12VAC5-481-340.
- 6 B. Individuals requesting to be placed on the Commonwealth's list of qualified inspectors of X-
7 ray machines pursuant to 32.1-229.1.D.5 of the Code of Virginia shall:
- 8 1. Request approval by the Office of Radiological Health to become a qualified inspector of
9 X-ray machines pursuant to 12VAC5-481-340; and
- 10 2. Pay an initial registration fee of \$150 to the Virginia Department of Health's X-ray
11 Program, once approved; and
- 12 3. Pay annually a registration renewal fee of \$150 to remain on the list as a qualified
13 inspector of X-ray machines pursuant to 12VAC5-481-340.

Statutory Authority

§ 32.1-229.1 of the Code of Virginia



COMMONWEALTH of VIRGINIA

Department of Health

P O BOX 2448
RICHMOND, VA 23218

Marissa J. Levine, MD, MPH
STATE HEALTH COMMISSIONER

TTY 7-1-1 OR
1-800-828-1120

MEMORANDUM

DATE: December 1, 2016

TO: Virginia State Board of Health

FROM: Allen Knapp, Office of Environmental Health Services

SUBJECT: Fast-track amendments; performance requirements for direct dispersal for repair and voluntary upgrade applications.

The Regulations for Alternative Onsite Sewage Systems (12VAC5-613, AOSS Regulations) establish performance and operation and maintenance requirements for alternative onsite sewage systems. The draft fast-track amendments change the definition of “direct dispersal of effluent to groundwater,” also known as “direct dispersal,” (12VAC5-613-10), and adds a new section (12VAC5-613-90.E) revising performance requirements of repairs and voluntary upgrades.

The fast-track amendments will encourage owners with older septic systems to improve treatment from what is currently dispersed, resulting in greater public health protection. The requirements for direct dispersal contained in the AOSS Regulations have proven to be an economic stumbling block for owners who want to repair or upgrade older septic systems with newer technology. The draft requirements would only be available to owners of sewage systems already dispersing effluent into groundwater with an average sewage flow of 1,000 gallons/day or less.

Since the AOSS Regulations became effective, the Commissioner has granted more than 30 variances to property owners who could not afford to comply with direct dispersal requirements for repairs and voluntary upgrades of older septic systems. The older septic systems already discharge partially treated effluent to the groundwater and the owner could continue to do so pursuant to Va. Code §32.1-164.1:1. The current AOSS Regulations inadvertently discourage more complete upgrades and repairs as the requirements for direct dispersal are too difficult to attain when applied to previously developed properties with pre-existing site restrictions. The fast track amendments improve the AOSS Regulations by providing a clearer definition of direct dispersal, identifying appropriate exclusions from the definition, and by specifying more reasonable and appropriate treatment and performance requirements for direct dispersal when an

owner needs to repair or upgrade an installed sewage system. The changes will promote greater protection of public health and the environment.

Staff does not believe the fast-track amendments will be viewed as controversial. The Sewage Handling and Disposal Advisory Committee, consisting of over 15 stakeholder groups, reviewed the fast track amendments for a second time at its September 15, 2016, meeting. All but one of the stakeholders approved the fast-track amendments. The one dissenting vote resulted from the stakeholder wanting the fast track amendments to include new construction or undeveloped property, in addition to voluntary upgrades and repairs. Staff will consider this stakeholder's position through another regulatory action since many other stakeholders oppose changing performance requirements for undeveloped property.

By some estimates, compliance with direct dispersal requirements can cost over \$35,000 for many owners with previously developed properties. With the changes, costs will be significantly reduced, perhaps by 50% or more. The fast track amendments will provide a more financially attainable level of treatment for developed properties, while still providing a high level of public health protection. The amendments will also eliminate the need for an individualized variance for most situations.

Upon approval by the Board of Health, the fast track amendments will undergo executive branch review and approval. Following publication of the fast track amendments after executive branch approval, the regulation would take effect 15 days after the close of a 30-day comment period unless 10 or more persons object, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules objects. In the event of a qualified objection, the fast track amendments would revert to the normal and routine regulatory adoption process.



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Fast-Track Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-613
Regulation title(s)	Regulations for Alternative Onsite Sewage Systems
Action title	Performance Requirements for Repairs and Voluntary Upgrades of Systems that Directly Disperse Effluent to Groundwater
Date this document prepared	October 14, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Regulations for Alternative Onsite Sewage Systems (12VAC5-613, AOSS Regulations) establish performance and operation and maintenance requirements for alternative onsite sewage systems. The fast track amendments will change the definition of “direct dispersal of effluent to groundwater,” also known as “direct dispersal,” (12VAC5-613-10), and will add a new section

(12VAC5-613-90.E) to address performance requirements for repairs and voluntary upgrades of systems that already disperse effluent to groundwater. The fast track amendments are narrowly focused to address a very specific situation when the owner has an installed sewage system that already disperses effluent into groundwater with an average daily sewage flow of less than 1,000 gallons/day, and the owner wants to repair or upgrade that installed sewage system. The fast track amendments do not affect requirements for undeveloped properties or new construction and development; however, the change in definition would not consider certain site grading work as initiating requirements for direct dispersal (e.g., pipe and tank excavations, minor tillage of the soil surface without soil removal, or replacement of fill material). The fast track amendments will improve the AOSS Regulations by providing a clearer definition of direct dispersal, identifying appropriate exclusions from the definition, and by specifying more reasonable treatment and performance requirements for direct dispersal when an owner needs to repair or wants to upgrade an installed sewage system that already disperses effluent into the water table.

The fast track amendments will allow owners with older sewage systems to meet less stringent, and more appropriate, performance and monitoring requirements. The fast track amendments will reduce the number of owners who repair or upgrade their existing septic systems with waivers to treatment as allowed by Va. Code § 32.1-164.1:1. Even though the fast track amendments offer different performance requirements than required for new construction and undeveloped property, the amendments will be more protective of public health because owners with older, failing, or low-performing septic systems will be more likely to comply with the new performance requirements.

Currently, many owners waive additional treatment and pressure dosing required by the AOSS Regulations pursuant to Va. Code § 32.1-164.1:1. Many owners report direct dispersal requirements have created an economic hardship when homeowners want to repair or upgrade older septic systems with newer technology. Since the AOSS Regulations became effective, the Commissioner has granted more than 30 variances to property owners who could not afford to comply with direct dispersal requirements for repairs and voluntary upgrades of older septic systems. Also, about 750 owners have taken a waiver pursuant to Va. Code § 32.1-164.1:1 from additional treatment and pressure dosing. The older septic systems already discharge partially treated effluent to the groundwater and the current AOSS Regulations inadvertently discourage more complete upgrades and repairs as the requirements for direct dispersal are cost prohibitive when applied to previously developed properties.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

“AOSS” means Alternative Onsite Sewage System

“BMP” means Best Management Practice

- “Board” means Board of Health
- “BOD₅” means Biochemical Oxygen Demand 5-day
- “GPD” means gallons per day
- “TN” means Total Nitrogen
- “TP” means Total Phosphorous
- “TMDL” means Total Maximum Daily Load
- “TSS” means Total Suspended Solids

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including:

1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

Va. Code § 32.1-12 authorizes the Board to make, adopt, promulgate, and enforce regulations that protect, improve, and preserve public health and the environment for the general welfare of the citizens of the Commonwealth. Va. Code §§ 32.1-164 A. and B. authorize the Board to adopt regulations governing the collection, conveyance, transportation, treatment, and disposal of sewage, including sewerage systems and treatment works as they affect public health and welfare.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Currently, there is no single technology that can comply with all of the performance requirements for direct dispersal. Different technologies must be combined to meet the current regulation. However, the proposed fast-track amendment would allow the possibility to use a single treatment technology to meet the performance requirements, thereby reducing costs while still being protective of public health. When the final regulations were first adopted in 2011, the general sentiment at that time was to require best available technology and that costs would reduce over time. However, costs have not substantially decreased; and to date, no property owner has submitted an application to comply with the requirements for direct dispersal. Private industry is trying to meet the current standard; however, there is a need to allow for upgrades and

repairs in the interim. The change in performance standards improves public health protection and reverts to the regulatory requirements that were in effect under the emergency AOSS Regulations from 2009 until December 7, 2011, with the addition of TN reduction.

In regulating direct dispersal of treated effluent to groundwater, 12VAC5-613-90.D.4 establishes a discharge limit of 3 mg/l TN and 0.3 mg/l TP in the Chesapeake Bay Watershed, which is the limit of technologies available in the marketplace. However, the limit of technology is not economically possible for many homeowners with an older septic system that already disperses septic tank effluent directly into groundwater. By some estimates, compliance with current requirements can cost nearly \$40,000 for many owners with previously developed properties. Operation and maintenance costs can exceed \$2,000 per year. In contrast, the cost to comply with the fast track amendments is estimated to be at least 50% less.

Many existing systems do not meet site and soil criteria established under current regulations. When the existing system fails the owner is faced with the cost of installing additional treatment or pressure dosing to repair the system. In some cases, the cost of the new treatment or pressure dosing requirements is a barrier for property owners seeking to repair a failing onsite sewage system. In 2004, the General Assembly of Virginia approved legislation to address this issue by amending Va. Code § 32.1-164.1:1 to allow property owners to request a waiver from additional treatment or pressure dosing requirements beyond the level provided by the existing system when repairing a failing onsite sewage system.

A waiver granted under Va. Code § 32.1-164.1:1 to repair a failing system is not transferable (unless specifically exempt) and expires upon property transfer. In 2011, the General Assembly of Virginia approved legislation which again amended Va. Code § 32.1-164.1:1 and added Va. Code § 32.1-164.1:3 to allow for the voluntary upgrade of onsite sewage systems and alternative discharging sewage systems. As amended, property owners that voluntarily upgrade their onsite sewage system can also request a waiver from additional treatment or pressure dosing requirements, similar to waivers granted to repair failing onsite sewage systems. However, unlike waivers granted to repair failing systems, waivers granted for voluntary upgrades do not become null and void upon sale of the property.

Waivers pursuant to Va. Code § 32.1-164.1:1 allow homeowners located anywhere within the Commonwealth, including within the Chesapeake Bay Watershed, to simply waive additional treatment and continue to discharge untreated septic effluent into groundwater. Waivers do not apply to operation and maintenance (O&M) requirements. The fast-track amendments change the performance requirements and O&M schedule for direct dispersal of a voluntary upgrade or repair; it does not change the statute, and the law allows the property owner to receive a waiver.

Section 12VAC5-613-90.C sets stringent performance and operational requirements for all sewage systems that result in direct dispersal. These stringent requirements include: 1) quarterly sampling and remote monitoring; 2) BOD₅ and TSS equal to or less than 5 mg/l; 3) fecal coliform concentration less than or equal to 2.2 col/100 ml with no sample exceeding 14 col/100 ml; 4) Total Nitrogen less than 5 mg/l; high level disinfection; average turbidity of less than or equal to 2 Nephelometric turbidity units prior to disinfection; 5) a renewable operating permit; and 6) a hydrogeologic analysis of the receiving groundwater. These requirements, while

appropriate for new construction and undeveloped properties, present a significant financial barrier for a homeowner wanting to repair or upgrade an older septic system that already disperses effluent to ground water. In many cases, the owner cannot avoid having a repair or upgrade that does not directly disperse effluent to groundwater.

Since promulgation of the AOSS Regulations on December 7, 2011, the Commissioner of Health has granted more than 30 variances to owners claiming financial hardship for repairs and voluntary upgrades, and about 750 owners have waived requirements pursuant to Va. Code § 32.1-164.1:1. The fast track amendments are essential to protect the health, safety and welfare of citizens in that they will provide a more financially attainable level of treatment for previously developed properties, while still providing a high level of public health protection and encouraging owners to not waive regulatory requirements. The fast track amendments will also eliminate the need for an individualized variance for most situations.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The fast-track amendments will allow more owners to affordably repair or upgrade old sewage systems that already disperse effluent to ground water while upholding strict requirements for new systems seeking to disperse effluent to groundwater. This action is not considered to be controversial as it reduces a financial burden to homeowners and small business owners while improving public health and the environment.

For the fast-track amendments, Virginia Department of Health staff consulted with the Sewage Handling and Disposal Advisory Committee (advisory committee), which comprises over 15 stakeholder groups, including homebuilders, realtors, well drillers, septic contractors, professional engineers, operators, onsite soil evaluators, environmental groups, and regulatory interests. On June 3, 2015, and September 16, 2016, the advisory committee discussed the fast-track amendments to the AOSS Regulations to address voluntary upgrades and repairs that disperse effluent directly to groundwater. At the September 16, 2016, meeting, the advisory committee recommended the fast-track amendments be approved for the Board of Health's consideration. Only one stakeholder, Mr. Joel Pinnix, representing the American Council of Engineering Companies of Virginia, opposed the fast track amendment because it did not include undeveloped property or new construction activities, only repairs and upgrades. The fast track amendments do not include new construction activities because that idea is considered controversial, which requires vetting through the routine and normal regulatory adoption process.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

The amendment to the definition of direct dispersal of effluent to ground water at 12VAC5-613-10 will clarify that excavation excludes pre-existing soil disturbance not designed to create a direct conduit or preferential path to groundwater. The amendment to 12VAC5-613-90 will add subsection (E) to require a repaired or voluntarily upgraded direct dispersal system meet 50% reduction of TN as compared to a conventional gravity drainfield system, TL-3 treatment, and standard disinfection in accordance with 12VAC5-613-80 (13), Table 2, for systems with less than twelve inches of vertical separation to groundwater.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantages to the public are increased public health protection and a reduced financial burden to repair or upgrade sewage systems when requirements for direct dispersal apply. The public will also receive faster permitting because a variance or waiver to the regulation would no longer be necessary in most cases. The advantage to the agency is it will reduce staff time processing waivers and individual variances to the regulations; and, in most cases, the regulatory amendments will lead to more clearly defined expectations for repairing and upgrading sewage systems. Currently, the Commissioner has granted over 30 variances to allow for the repair or voluntary upgrade of existing direct dispersal systems. The proposed amendments, while having less stringent requirements for treatment and monitoring, are still protective of public health in context of the cost, exceed the level of treatment provided by the existing sewage system, are within the requirements of the EPA’s model program for the TMDL, and ease the financial burden on the homeowner or small business owner while streamlining the agency’s processing of applications. There are no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive

requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed changes to the regulations are not more restrictive than any federal requirement. There is no federal requirement with respect to onsite sewage systems.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The localities near the Chesapeake Bay and within the coastal plain physiographic province of the Commonwealth are most likely to take advantage of the fast track amendments because these regions are more likely to have shallow groundwater and sewage systems dispersing effluent close to, or into, the shallow groundwater.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The amendments would allow existing direct dispersal systems seeking a voluntary upgrade or a repair of a failing system to meet: (1) treatment levels less stringent than for new construction with less frequent reporting requirements; (2) less stringent sampling frequency (yearly instead of quarterly); and (3) less stringent performance standards for treatment (e.g., 10 mg/l or less BOD₅, standard disinfection, 50% TN reduction instead of 5 mg/l or less BOD₅ with high level disinfection, 3 mg/l or less TN, and 0.3 mg/l or less P). These proposed amendments have no negative impact on small businesses.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>The amendments will not add cost to the state, but will decrease the cost as staff will not have to individually process variance requests.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>The amendments will add no additional cost to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Owners of AOSS systems, especially in the Chesapeake Bay Watershed will be able to more affordably repair and voluntarily upgrade their AOSS systems.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Each year, the Department receives about 2,500 to 3,500 applications for repairs and voluntary upgrades. Of these requests, approximately 1,000 could be associated with direct dispersal. Of these, the Department estimates 1 to 25 could be associated with a small business. Currently, if the owners do not receive a variance to the AOSS Regulations or do not seek a waiver pursuant to Va. Code § 32.1-164.1:1, then the requested upgrade or needed repair is often not completed.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There is no additional reporting requirement or cost for real estate development.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The amendments will reduce the financial burden on homeowners and small business to repair or voluntarily upgrade an existing onsite sewage system.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The agency could choose not to amend the regulations; in which case, homeowners or small business owners would need to fully comply with the more stringent regulations for repairs and voluntary upgrades, or request a variance from the AOSS Regulations or receive a waiver pursuant to Va. Code § 32.1-164.1:1. Currently, there is no single technology that can comply with all of the performance requirements for direct dispersal and the cost associated with repairing or upgrading an older septic system are not financially feasible for many homeowners.

While the cost for direct dispersal requirements is appropriate for new construction, many owners with previously developed property cannot afford to comply with these standards when trying to repair or upgrade an existing septic system. The number of variance and waiver requests for voluntary upgrades and repairs demonstrates many owners cannot financially comply with the current regulations for direct dispersal. The limit of currently available technology is not always feasible for repairs and voluntary upgrades. The best alternative is to amend the regulation.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Periodic review and small business impact review report of findings

If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been

evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

(1) This fast-track is not the specific result of a periodic review or small business impact review. This regulatory initiative specifically results from an internal assessment that took place before the periodic review. However, a periodic review of the regulation concluded on February 25, 2016, and the Board received 34 comments asking for various changes to the regulations. The Virginia Department of Health plans a separate stakeholder process and regulatory action to address all of the comments received during the periodic review. The Board recognizes that two commenters asked for a change to the requirements for direct dispersal (see comments from Ms. Janet Swords, dated February 9, 2016, and Mr. Joel Pinnix, dated February 24, 2016). The Board considered these two comments when finalizing this proposal.

Other comments received addressed field testing (12VAC5-613-70), requirements for soil evaluation (12VAC5-613-40.G), general approval and other definitions (12VAC5-613-10), adding additional standards of practice and ethical requirements, and updating or changing performance requirements (12VAC5-613-80).

(2) The AOSS Regulations are necessary to protect public health, safety, and welfare. Additional changes to the regulations will be discussed with stakeholders through a separate regulatory action to improve clarity and understanding of the performance requirements (12VAC5-613-80), field testing (12VAC5-613-70), site characterization (12VAC5-613-40.G), and definitions (12VAC5-613-10).

Discussion of the agency's consideration:

- (1) The regulations are necessary to ensure that AOSS do not adversely impact surface water, groundwater, and public health. The regulations remain necessary to implement Va. Code §§32.1-163.5 and 163.6.
- (2) The concerns raised from the public generally address performance requirements and evaluation for TL-3 general approval.
- (3) The regulation is necessary to implement performance requirements for AOSS. The agency does not believe the regulation is not too complex, but additional edits can improve clarity and understanding.
- (4) Because there are no other federal or state requirements for AOSS, and because the AOSS Regulations supersede the Sewage Handling and Disposal Regulations (12VAC5-610) if any conflict existed, the agency finds the AOSS Regulations do not conflict with other federal or state regulations.
- (5) The AOSS Regulations were promulgated on December 7, 2011, and the Virginia Department of Health has gained considerable experience working with the relatively

new regulation. Technology continues to improve, including nascent ideas for treating and dispersing treated effluent.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The substantive regulatory changes will allow more families to affordably repair or upgrade their failing or low performing sewage systems. The fast track amendments will have no impact on the authority or rights of parents to educate, nurture, or supervise their children. The amendments will reduce the cost to repair or voluntarily upgrade a sewage system that is subject to direct dispersal requirements, which could encourage self-sufficiency. The amendments will likely have no impact on marital commitment, but could have a positive impact on disposable family income since repairs and voluntary upgrades for direct dispersal will be less expensive with the amendments.

Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the **pre-emergency regulation** and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-613-10		Direct dispersal of effluent to ground water means less than	Direct dispersal of effluent to ground water means less than six inches of

		<p>six inches of vertical separation between the point of effluent application or the bottom of a trench or other excavation and ground water.</p>	<p>vertical separation between groundwater and the point of effluent application or the bottom of an effluent-dispersal trench or other excavation. Other excavation excludes minor tillage of the soil surface without soil removal; replacement of fill material; house foundations; tank excavations; force main and header line excavations; and pre-existing soil disturbances, including, but not limited to, percolation trenches, utility line excavations, or other excavations not designed for surface or groundwater drainage.</p> <p>The proposed change clarifies what direct dispersal means and explains what is specifically excluded from the definition. A repair or voluntary upgrade located over an older sewage system’s footprint would no longer be considered direct dispersal. Currently, such designs are considered direct dispersal even though the design improves the existing situation and reduces threats to public health. The broad language of the current regulatory definition could encompass such activities as augering a soil boring, or excavation for a tank, which has never been considered a site feature that requires adherence to direct dispersal requirements.</p> <p>The updated definition will provide specific exclusions from the definition and make clear what site features and conditions initiate direct dispersal requirements.</p>
<p>12VAC5-613-90</p>	<p><u>E. When an application is filed to repair or voluntarily upgrade an existing sewage</u></p>	<p>A. The AOSS shall not pose a greater risk of ground water pollution than systems otherwise permitted pursuant to 12VAC5-610. After wastewater has passed through a treatment unit or</p>	<p>For repairs and voluntary upgrades that directly disperse effluent to groundwater, the new regulation sets treatment levels at 50% reduction of TN as compared to a conventional drainfield and adopt the TL-3 and standard disinfection standard of systems with less than 12 inches vertical</p>

	<p><u>system with an average daily sewage flow of 1,000 gallons per day or less, and the existing sewage system already disperses effluent to groundwater as defined in 12VAC5-613-10, and the repair or upgrade must also be direct dispersal due to site conditions, then the repair or upgrade shall not be subject to the requirements of 12VAC5-613-90.C, 12VAC5-613-90.D.4, and 12VAC5-613-100.G. The repair or upgrade shall be subject to the following requirements:</u></p> <p><u>1. A minimum 50% reduction of</u></p>	<p>septic tank and through the soil in the soil treatment area, the concentration of fecal coliform organisms shall not exceed 2.2 cfu/100 ml at the lower vertical limit of the project area boundary.</p> <p>B. Each large AOSS shall comply with TN limit of 5 mg/l at the project area boundary. Prior to the issuance of a construction permit, the designer shall demonstrate compliance with this requirement through modeling or other calculations. Such demonstration may incorporate multiple nitrogen removal methods such as pretreatment, vegetative uptake (only for AOSSs with shallow soil treatment areas), denitrification, and other viable nitrogen management methods. Ground water and other monitoring may be required at the department's discretion.</p> <p>C. AOSSs with direct dispersal of effluent to ground water are subject to the following requirements:</p> <p>1. If the concentration of any constituent in ground water is less than the limits set forth at 9VAC25-280, the natural quality for the constituent shall be maintained; natural quality shall also be maintained for all constituents not set forth in 9VAC25-280. If the concentration of any constituent in ground</p>	<p>separation to groundwater.</p> <p>The intent is to reduce the financial burden to owners seeking to repair or voluntarily upgrade their older sewage systems, which already disperse effluent into the watertable.</p> <p>The new subsection will provide a more financially attainable level of treatment for previously developed properties, while still providing a high level of public health protection and encouraging owners not to waive regulatory requirements.</p>
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	<p><u>TN as compared to a conventional gravity drainfield system.</u></p> <p><u>2. Provide TL-3 effluent and standard disinfection in accordance with 12VAC5-613-80 (13), Table 2, for systems with less than 12 inches vertical separation to groundwater.</u></p> <p><u>3. Monitored pursuant to 12VAC5-613-100.D or 12VAC5-613.100.E as appropriate.</u></p>	<p>water exceeds the limit in the standard for that constituent, no addition of that constituent to the naturally occurring concentration shall be made. The commissioner shall consult with the Department of Environmental Quality prior to granting any variance from this subsection.</p> <p>2. Ground water and laboratory sampling in accordance with 12VAC5-613-100G.</p> <p>3. The treatment unit or system shall comply with the following at a minimum:</p> <ul style="list-style-type: none"> a. The effluent quality from the treatment unit or system shall be measured prior to the point of effluent application to the soil treatment area and shall be as follows: BOD₅ and TSS concentrations each equal to or less than 5 mg/l; fecal coliform concentrations less than or equal to 2.2 col/100 ml as a geometric mean with no sample exceeding 14 col/100 ml; and TN concentration of less than 5 mg/l; b. High level disinfection is required; and 	
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		<p>c. Treatment systems shall incorporate filtration capable of demonstrating compliance with an average turbidity of less than or equal to 2 NTU prior to disinfection.</p> <p>4. Gravity dispersal to the soil treatment area is prohibited.</p> <p>5. Loading rates to the soil treatment area shall not exceed the loading rates in Table 1 of this section.</p> <p>6. A renewable operating permit shall be obtained and maintained in accordance with 12VAC5-613-60 C.</p> <p>7. The designer shall provide sufficient hydrogeologic analysis to demonstrate that a proposed AOSS will function as designed for the life of the structure served without degradation of the soil treatment area. This shall include a determination of ground water flow direction and rate.</p> <p>D. The following additional nutrient requirements apply to all AOSSs in the Chesapeake Bay Watershed:</p> <p>1. All small AOSSs shall provide a 50% reduction of TN as compared to a conventional gravity drainfield system;</p>	
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		<p>compliance with this subdivision may be demonstrated through the following:</p> <ul style="list-style-type: none"> a. Compliance with one or more best management practices recognized by the division such as the use of a NSF 245 certified treatment; or b. Relevant and necessary calculations provided to show one or both of the following: <ul style="list-style-type: none"> (1) Effluent TN concentration of 20 mg/l measured prior to application to the soil dispersal field; or (2) A mass loading of 4.5 lbs N or less per person per year at the project boundary provided that no reduction for N is allotted for uptake or denitrification for the dispersal of effluent below the root zone (>18 inches below the soil surface). <p>2. All large AOSSs up to and including 10,000 gallons per day shall provide a 50% reduction of TN at the project boundary as compared to a conventional gravity drainfield system. Compliance with this subdivision may be</p>	
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		<p>demonstrated as follows:</p> <ul style="list-style-type: none">a. A demonstrated effluent quality of less than or equal to 20 mg/l TN measured prior to application to the soil treatment area; orb. In situ monitoring of the treatment works within 24 vertical inches of the point of effluent application to the soil treatment area to demonstrate the effluent leaving the treatment works has a TN concentration of less than or equal to 20 mg/l. The designer shall identify an intermediate compliance point within the treatment system and a corresponding TN concentration for use in the event that a representative in situ sample cannot be obtained. The intermediate compliance point and the corresponding TN concentration for use must be approved by the department and shall be conditions of the operation permit. <p>The AOSS operation permit shall be conditioned upon compliance with the constituent concentrations</p>	
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		<p>approved pursuant to this subdivision.</p> <p>3. All large AOSSs over 10,000 gallons per day shall comply with the following TN requirements:</p> <ul style="list-style-type: none">a. A demonstrated effluent quality of less than or equal to 8 mg/l TN measured prior to application to the soil treatment area; orb. In situ monitoring of the treatment works within 24 vertical inches of the point of effluent application to the soil treatment area to demonstrate the effluent leaving the treatment works has a TN concentration of less than or equal to 5 mg/l. The designer shall identify an intermediate compliance point within the treatment system and a corresponding TN concentration for use in the event that a representative in situ sample cannot be obtained. The intermediate compliance point and the corresponding TN concentration for use must be approved by the department and shall be conditions of the operation permit.	
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		<p>The AOSS operation permit shall be conditioned upon compliance with the constituent concentrations approved pursuant to this subdivision.</p> <p>4. For direct dispersal of effluent to groundwater in the Chesapeake Bay Watershed, TN concentration shall be less than or equal to 3 mg/l and total phosphorus concentration shall be less than or equal to 0.3 mg/l.</p>	
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DEPARTMENT OF HEALTH

Amend Alternative Onsite Regulations

Part I

General

1 **12VAC5-613-10. Definitions.**

2 The following words and terms used in this chapter shall have the following meanings.
3 Terms not defined in this chapter shall have the meanings prescribed in Chapter 6 (§ 32.1-163
4 et seq.) of Title 32.1 of the Code of Virginia or in 12VAC5-610 unless the plain reading of the
5 language requires a different meaning.

6 "Alternative onsite sewage system," "AOSS," or "alternative onsite system" means a
7 treatment works that is not a conventional onsite sewage system and does not result in a point
8 source discharge.

9 "Best management practice" means a conservation or pollution control practice approved by
10 the division, such as wastewater treatment units, shallow effluent dispersal fields, saturated or
11 unsaturated soil zones, or vegetated buffers, that manages nutrient losses or other potential
12 pollutant sources to minimize pollution of water resources.

13 "Biochemical oxygen demand, five-day" or "BOD₅" means the quantitative measure of the
14 amount of oxygen consumed by bacteria while stabilizing, digesting, or treating biodegradable
15 organic matter under aerobic conditions over a five-day incubation period; BOD₅ is expressed in
16 milligrams per liter (mg/l).

17 "Board" means the State Board of Health.

18 "Chesapeake Bay Watershed" means the following Virginia river basins: Potomac River
19 Basin (see 9VAC25-260-390 and 9VAC25-260-400), James River Basin (see 9VAC25-260-410,
20 9VAC25-260-415, 9VAC25-260-420, and 9VAC25-260-430), Rappahannock River Basin (see
21 9VAC25-260-440), Chesapeake Bay and small coastal basins (see 9VAC25-260-520, Section 2
22 through Section 3g), and the York River Basin (see 9VAC25-260-530).

23 "Conventional onsite sewage system" means a treatment works consisting of one or more
24 septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface
25 drainfield.

26 "Department" means the Virginia Department of Health.

27 "Direct dispersal of effluent to ground water" means less than six inches of vertical
28 separation between ground water and the point of effluent application or the bottom of a an
29 effluent-dispersal trench or other excavation ~~and ground water~~. Other excavation excludes the
30 following: minor tillage of the soil surface without soil removal; replacement of fill material with
31 better quality fill material as determined by the Department to improve the ability of the site to
32 treat wastewater; house foundations; tank excavations; force main and header line excavations;
33 and soil disturbances, including pre-existing drainfields installed prior to _____ (effective date of
34 regulatory change), that are not designed for surface or ground water drainage, and do not
35 create a direct conduit to ground water.

36 "Disinfection" means a process used to destroy or inactivate pathogenic microorganisms in
37 wastewater to render them non-infectious.

38 "Dissolved oxygen" or "DO" means the concentration of oxygen dissolved in effluent,
39 expressed in mg/l or as percent saturation, where saturation is the maximum amount of oxygen
40 that can theoretically be dissolved in water at a given altitude and temperature.

41 "Division" means the Division of Onsite Sewage and Water Services, Environmental
42 Engineering, and Marina Programs within the department .

43 "Effluent" means sewage that has undergone treatment.

44 "General approval" means that a treatment unit has been evaluated in accordance with the
45 requirements of this chapter and 12VAC5-610 and approved for TL-2 or TL-3 in accordance
46 with this chapter.

47 "GPD/sf" means gallons per day per square foot.

48 "Ground water" means any water, except capillary moisture, beneath the land surface in the
49 zone of saturation or beneath the bed of any stream, lake, reservoir, or other body of surface
50 water wholly or partially within the boundaries of this Commonwealth, whatever the subsurface
51 geologic structure in which such water stands, flows, percolates, or otherwise occurs. Ground
52 water includes a seasonal or perched water table.

53 "High-level disinfection" means a disinfection method that results in a fecal coliform
54 concentration less than or equal to 2.2 colonies/100 ml. Chlorine disinfection requires a
55 minimum total residual chlorine (TRC) concentration at the end of a 30 minute contact time of
56 1.5 mg/l. Ultraviolet disinfection requires a minimum dose of 50,000 $\mu\text{W}\cdot\text{sec}/\text{cm}^2$. Influent
57 turbidity to the disinfection unit shall be less than or equal to 2 Nephelometric turbidity units
58 (NTU) on average.

59 "Ksat" means saturated hydraulic conductivity.

60 "Large AOSS" means an AOSS that serves more than three attached or detached single-
61 family residences with a combined average daily sewage flow greater than 1,000 GPD or a
62 structure with an average daily sewage flow in excess of 1,000 GPD.

63 "Limiting feature" means a feature of the soil that limits or intercepts the vertical movement
64 of water, including seasonal, perched or permanent water table, pans, soil restrictions, and
65 pervious or impervious bedrock.

66 "Local health department" means the local health department having jurisdiction over the
67 AOSS.

68 "Maintenance" means performing adjustments to equipment and controls and in-kind
69 replacement of normal wear and tear parts such as light bulbs, fuses, filters, pumps, motors, or
70 other like components. Maintenance includes pumping the tanks or cleaning the building sewer
71 on a periodic basis. Maintenance shall not include replacement of tanks, drainfield piping, and
72 distribution boxes or work requiring a construction permit and an installer.

73 "MGD" means million gallons per day.

74 "MPI" means minutes per inch.

75 "Operate" means the act of making a decision on one's own volition to (i) place into or take
76 out of service a unit process or unit processes or (ii) make or cause adjustments in the
77 operation of a unit process at a treatment works.

78 "Operation" means the biological, chemical, and mechanical processes of transforming
79 sewage or wastewater to compounds or elements and water that no longer possess an adverse
80 environmental or health impact.

81 "Operator" means any individual employed or contracted by any owner who is licensed or
82 certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being
83 qualified to operate, monitor and maintain an alternative onsite sewage system.

84 "Organic loading rate" means the biodegradable fraction of chemical oxygen demand (BOD,
85 biodegradable fats, oils, and grease and volatile solids) delivered to a treatment component in a

86 specified time interval expressed as mass per time or area; examples include pounds per day,
87 pounds per cubic foot per day (pretreatment), or pounds per square foot per day (infiltrative
88 surface or pretreatment). For a typical residential system, these regulations assume that
89 biochemical loading (BOD₅) equals organic loading.

90 "Owner" means the Commonwealth or any of its political subdivisions, including sanitary
91 districts, sanitation district commissions and authorities, or any individual, any group of
92 individuals acting individually or as a group, or any public or private institution, corporation,
93 company, partnership, firm, or association that owns or proposes to own a sewerage system or
94 treatment works.

95 "pH" means the measure of the acid or base quality of water that is the negative log of the
96 hydrogen ion concentration.

97 "Pollution" means such alteration of the physical, chemical, or biological properties of any
98 state waters as will or is likely to create a nuisance or render such waters (i) harmful or
99 detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or
100 aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future
101 sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial,
102 agricultural, or other reasonable uses. Pollution shall include any discharge of untreated sewage
103 into state waters.

104 "Point source discharge" means any discernible, confined, and discrete conveyance
105 including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure,
106 container, rolling stock, concentrated animal feeding operation, landfill leachate collection
107 system, vessel, or other floating craft from which pollutants are or may be discharged. This term
108 does not include return flows from irrigated agriculture or agricultural storm water run-off.

109 "Project area" means one or more recorded lots or a portion of a recorded lot owned by the
110 owner of an AOSS or controlled by easement upon which an AOSS is located or that is
111 contiguous to a soil treatment area and that is designated as such for purposes of compliance
112 with the performance requirements of this chapter. In the case of an AOSS serving multiple
113 dwellings, the project area may include multiple recorded lots as in a subdivision.

114 "Project area boundary" or "project boundary" means the physical limits of the three-
115 dimensional length, width, and depth of the project area, whereby each dimension is identified
116 as follows: (i) the horizontal component is the length and width of the project area; (ii) the upper
117 vertical limit is the ground surface in and around the AOSS; and (iii) the lower vertical limit is the
118 limiting feature.

119 "Renewable operating permit" means an operation permit that expires and must be
120 revalidated at a predetermined frequency or schedule in accordance with this chapter.

121 "Reportable incident" means one or more of the following: an alarm event lasting more than
122 24 hours; an alarm event that reoccurs; any failure to achieve one or more performance
123 requirements; removal of solids; replacement of media; or replacement of any major component
124 of the system including electric and electronic components, pumps, blowers, and valves. The
125 routine cleaning of effluent filters is not a reportable incident.

126 "Saturated hydraulic conductivity" means a quantitative measure of a saturated soil's
127 capacity to transmit water when subjected to a hydraulic gradient.

128 "Settleable solids" means a measure of the volume of suspended solids that will settle out of
129 suspension within a specified time, expressed in milliliters per liter (ml/l).

130 "Sewage Handling and Disposal Regulations" means 12VAC5-610 or its successor.

131 "Small AOSS" means an AOSS that serves no more than three attached or detached single-
132 family residences with a combined average flow of less than or equal to 1,000 GPD, or a
133 structure with an average daily sewage flow of less than or equal to 1,000 GPD.

134 "Soil treatment area" means the physical location in the naturally occurring soil medium
135 where final treatment and dispersal of effluent occurs.

136 "Standard disinfection" means a disinfection process that results in a fecal coliform
137 concentration of less than or equal to 200 colonies/100 ml. Chlorine disinfection requires a
138 minimum TRC concentration at the end of a 30 minute contact time of 1.0 mg/l. Influent TSS to
139 the disinfection unit shall average 30 mg/l or less.

140 "Standard engineering practice" means the care, diligence, competence, and judgment that
141 a reasonably prudent and experienced professional engineer licensed in the Commonwealth of
142 Virginia would exercise given the circumstances, including site and soil conditions, of a
143 particular AOSS design.

144 "State waters" means all water, on the surface and under the ground, wholly or partially
145 within or bordering the Commonwealth or within its jurisdiction, including wetlands.

146 "Subsurface drainfield" means a system installed within the soil and designed to
147 accommodate treated sewage from a treatment works.

148 "Surface waters" means: (i) all waters that are currently used, were used in the past, or may
149 be susceptible to use in interstate or foreign commerce, including all waters that are subject to
150 the ebb and flow of the tide; (ii) all interstate waters, including interstate wetlands; (iii) all other
151 waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats,
152 sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds and
153 the use, degradation, or destruction of which would affect or could affect interstate or foreign
154 commerce including any such waters: (a) that are or could be used by interstate or foreign

155 travelers for recreational or other purposes; (b) from which fish or shellfish are or could be taken
156 and sold in interstate or foreign commerce; or (c) that are used or could be used for industrial
157 purposes by industries in interstate commerce; (iv) all impoundments of waters otherwise
158 defined as surface waters under this definition; (v) tributaries of waters identified in clauses (i)
159 through (iv) of this definition; (vi) the territorial sea; and (vii) wetlands adjacent to waters (other
160 than water that are themselves wetlands) identified in clauses (i) through (vi) of this definition.

161 "Total nitrogen" or "TN" means the measure of the complete nitrogen content of wastewater
162 including all organic, inorganic, and oxidized forms expressed in mg/l as nitrogen.

163 "Total residual chlorine" or "TRC" means a measurement of the combined available chlorine
164 and the free available chlorine available in a sample after a specified contact time.

165 "Total suspended solids" or "TSS" means a measure of the mass of all suspended solids in
166 a sample typically measured in milligrams per liter (mg/l).

167 "Treatment level 2 effluent" or "TL-2 effluent" means secondary effluent as defined in
168 12VAC5-610-120 that has been treated to produce BOD₅ and TSS concentrations equal to or
169 less than 30 mg/l each.

170 "Treatment level 3 effluent" or "TL-3 effluent" means effluent that has been treated to
171 produce BOD₅ and TSS concentrations equal to or less than 10 mg/l each.

172 "Treatment unit" or "treatment system" means a method, technique, equipment, or process
173 other than a septic tank or septic tanks used to treat sewage to produce effluent of a specified
174 quality before the effluent is dispersed to a soil treatment area.

175 "Turbidity" means a measurement of the relative clarity of effluent as a result of the
176 presence of varying amounts of suspended organic and inorganic materials or color.

177 "Vertical separation" means the vertical distance between the point of effluent application to
178 the soil or the bottom of a trench or other excavation and a limiting feature of the soil treatment
179 area such as seasonal high ground water, bedrock, or other restriction.

180 "Wetlands" means those areas that are inundated or saturated by surface or ground water at
181 a frequency and duration sufficient to support, and that under normal circumstances do support,
182 a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
183 generally include swamps, marshes, bogs, and similar areas .

184 **12VAC5-613-90. Performance requirements; ground water protection.**

185 A. The AOSS shall not pose a greater risk of ground water pollution than systems otherwise
186 permitted pursuant to 12VAC5-610. After wastewater has passed through a treatment unit or
187 septic tank and through the soil in the soil treatment area, the concentration of fecal coliform
188 organisms shall not exceed 2.2 cfu/100 ml at the lower vertical limit of the project area
189 boundary.

190 B. Each large AOSS shall comply with TN limit of 5 mg/l at the project area boundary. Prior
191 to the issuance of a construction permit, the designer shall demonstrate compliance with this
192 requirement through modeling or other calculations. Such demonstration may incorporate
193 multiple nitrogen removal methods such as pretreatment, vegetative uptake (only for AOSSs
194 with shallow soil treatment areas), denitrification, and other viable nitrogen management
195 methods. Ground water and other monitoring may be required at the department's discretion.

196 C. AOSSs with direct dispersal of effluent to ground water are subject to the following
197 requirements:

198 1. If the concentration of any constituent in ground water is less than the limits set forth
199 at 9VAC25-280, the natural quality for the constituent shall be maintained; natural quality
200 shall also be maintained for all constituents not set forth in 9VAC25-280. If the

201 concentration of any constituent in ground water exceeds the limit in the standard for
202 that constituent, no addition of that constituent to the naturally occurring concentration
203 shall be made. The commissioner shall consult with the Department of Environmental
204 Quality prior to granting any variance from this subsection.

205 2. Ground water and laboratory sampling in accordance with 12VAC5-613-100 G.

206 3. The treatment unit or system shall comply with the following at a minimum:

207 a. The effluent quality from the treatment unit or system shall be measured prior to
208 the point of effluent application to the soil treatment area and shall be as follows:
209 BOD₅ and TSS concentrations each equal to or less than 5 mg/l; fecal coliform
210 concentrations less than or equal to 2.2 col/100 ml as a geometric mean with no
211 sample exceeding 14 col/100 ml; and TN concentration of less than 5 mg/l;

212 b. High level disinfection is required; and

213 c. Treatment systems shall incorporate filtration capable of demonstrating
214 compliance with an average turbidity of less than or equal to 2 NTU prior to
215 disinfection.

216 4. Gravity dispersal to the soil treatment area is prohibited.

217 5. Loading rates to the soil treatment area shall not exceed the loading rates in Table 1
218 of this section.

219 6. A renewable operating permit shall be obtained and maintained in accordance with
220 12VAC5-613-60 C.

221 7. The designer shall provide sufficient hydrogeologic analysis to demonstrate that a
222 proposed AOSS will function as designed for the life of the structure served without

223 degradation of the soil treatment area. This shall include a determination of ground water
224 flow direction and rate.

225 D. The following additional nutrient requirements apply to all AOSSs in the Chesapeake Bay
226 Watershed:

227 1. All small AOSSs shall provide a 50% reduction of TN as compared to a conventional
228 gravity drainfield system; compliance with this subdivision may be demonstrated through
229 the following:

230 a. Compliance with one or more best management practices recognized by the
231 division such as the use of a NSF 245 certified treatment; or

232 b. Relevant and necessary calculations provided to show one or both of the
233 following:

234 (1) Effluent TN concentration of 20 mg/l measured prior to application to the soil
235 dispersal field; or

236 (2) A mass loading of 4.5 lbs N or less per person per year at the project
237 boundary provided that no reduction for N is allotted for uptake or denitrification
238 for the dispersal of effluent below the root zone (>18 inches below the soil
239 surface).

240 2. All large AOSSs up to and including 10,000 gallons per day shall provide a 50%
241 reduction of TN at the project boundary as compared to a conventional gravity drainfield
242 system. Compliance with this subdivision may be demonstrated as follows:

243 a. A demonstrated effluent quality of less than or equal to 20 mg/l TN measured prior
244 to application to the soil treatment area; or

245 b. In situ monitoring of the treatment works within 24 vertical inches of the point of
246 effluent application to the soil treatment area to demonstrate the effluent leaving the
247 treatment works has a TN concentration of less than or equal to 20 mg/l. The
248 designer shall identify an intermediate compliance point within the treatment system
249 and a corresponding TN concentration for use in the event that a representative in
250 situ sample cannot be obtained. The intermediate compliance point and the
251 corresponding TN concentration for use must be approved by the department and
252 shall be conditions of the operation permit.

253 The AOSS operation permit shall be conditioned upon compliance with the constituent
254 concentrations approved pursuant to this subdivision.

255 3. All large AOSSs over 10,000 gallons per day shall comply with the following TN
256 requirements:

257 a. A demonstrated effluent quality of less than or equal to 8 mg/l TN measured prior
258 to application to the soil treatment area; or

259 b. In situ monitoring of the treatment works within 24 vertical inches of the point of
260 effluent application to the soil treatment area to demonstrate the effluent leaving the
261 treatment works has a TN concentration of less than or equal to 5 mg/l. The designer
262 shall identify an intermediate compliance point within the treatment system and a
263 corresponding TN concentration for use in the event that a representative in situ
264 sample cannot be obtained. The intermediate compliance point and the
265 corresponding TN concentration for use must be approved by the department and
266 shall be conditions of the operation permit.

267 The AOSS operation permit shall be conditioned upon compliance with the constituent
268 concentrations approved pursuant to this subdivision.

269 4. For direct dispersal of effluent to groundwater in the Chesapeake Bay Watershed, TN
270 concentration shall be less than or equal to 3 mg/l and total phosphorus concentration
271 shall be less than or equal to 0.3 mg/l.

272 E. When an application is filed to repair or voluntarily upgrade an existing sewage system
273 with an average daily sewage flow of 1,000 gallons per day or less, and the existing
274 sewage system already disperses effluent to groundwater as defined in 12VAC5-613-
275 10, and the repair or upgrade must also be direct dispersal due to site conditions, then
276 the repair or upgrade shall not be subject to the requirements of 12VAC5-613-90.C, 12
277 VAC5-613-90.D.4, and 12VAC5-613-100.G. The repair or upgrade shall be subject to
278 the following requirements:

279 1. A minimum 50% reduction of TN as compared to a conventional gravity
280 drainfield system.

281 2. Provide TL-3 effluent and standard disinfection in accordance with
282 12VAC5-613-80 (13), Table 2, for systems with less than 12 inches vertical
283 separation to groundwater.

284 3. Monitored pursuant to 12VAC5-613-100.D or 12VAC5-613.100.E as
285 appropriate.

MEMORANDUM

DATE: November 14, 2016

TO: State Board of Health

FROM: Allen L. Knapp, Director, Office of Environmental Health Services

RE: Proposed Amendments – Rules and Regulations Governing Campgrounds (12VAC5-450)

Proposed amendments to the Commonwealth of Virginia Board of Health Rules and Regulations Governing Campgrounds (campground regulations) are attached; the Virginia Department of Health recommends that the Board adopt the proposed amendments to these regulations.

The Board of Health adopted the current campground regulations on July 21, 1971. The intent of this regulatory action is to amend the regulations to address current camping practices, update terminology, and remove and replace outdated requirements. In particular, amendments have been made to address temporary campgrounds associated with festivals and other outdoor gatherings, and to address primitive camping characterized by a lack of modern conveniences. Additional changes include requirements for campgrounds to form emergency response plans, the requirement that campgrounds using private wells submit annual satisfactory water sample test results, the establishment of provisions for cabins and other rental units, and the clarification of existing language pertaining to permitting, enforcement, and the requirements of the Administrative Process Act.

VDH completed a periodic review of the Rules and Regulations Governing Campgrounds on June 24, 2013, and concluded that the regulations needed to be amended. This regulatory action flows from that determination. VDH began regulatory action by publishing a Notice of Intended Regulatory Action (NOIRA) on June 27, 2016; VDH received no public comments on Town Hall regarding the proposed changes. Following the end of the public comment period of the NOIRA, a stakeholder group was formed that consisted of permanent campground owners and operators, temporary camping event producers, representatives from national and state campground organizations, and members of the regulatory community with subject matter expertise. Stakeholder meetings were held on September 8, 2016, and September 28, 2016; the group delivered positive feedback on the proposed amendments on both occasions.

If the Board approves the proposed amendments, the regulation will be published on www.townhall.virginia.gov, where it will be available for public comment for 60 days. The agency will then consider comments in the preparation of final regulatory text. The proposed amendments are necessary to update the Rules and Regulations Governing Campgrounds. As such, VDH recommends that the Board act pursuant to its authority provided in § 32.1-12 of the Code of Virginia and adopt the proposed amendments to the campground regulations.



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-450-10 et. seq.
Regulation title(s)	Rules and Regulations Governing Campgrounds
Action title	Amend Campground Regulations following Periodic Review
Date this document prepared	10/13/16

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Rules and Regulations Governing Campgrounds are unchanged since their initial promulgation in 1971. Significant changes in the camping industry over the past 40 years have rendered the current regulations outdated; these include the size and duration of camping events and the types of camping now popular. The intent of this regulatory action is to amend the regulations to address current camping practices, update terminology, and remove and replace outdated requirements. The goals are to increase consistency and understanding in the campground program, reduce the number of requests the Virginia Department of Health (VDH) receives to waive the regulatory requirements, and apply current public health practices industry-wide to promote public safety and reduce burdensome regulatory oversight.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

APA- Administrative Process Act
RV- Recreational vehicle
VDH – Virginia Department of Health

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The Board of Health has general authority to promulgate regulations pursuant to Code of Virginia § 35.1-11 which states the Board shall make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of this title and to protect the public health and safety. The regulations of the Board specifically governing campgrounds pursuant to Code of Virginia § 35.1-17 shall include minimum standards for drinking water, sewage disposal, solid waste disposal, maintenance, vector and pest control, toilet and shower facilities, swimming facilities, control of animals and pets, procedures and safeguards for hazardous situations, maintenance and sale of propane gas, and procedures for obtaining a permit. Additionally, VDH may also establish classes of campgrounds and concomitant requirements for each as authorized by Code of Virginia § 35.1-17.B.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Rules and Regulations Governing Campgrounds (Regulations) have remained unchanged since first becoming effective in 1971. Amending the Regulations is essential to protect the health and safety of visitors to the Commonwealth's campgrounds. The current definition of a campground (contained in the Code of Virginia § 35.1-1) requires an owner to comply with the Regulations when three or more designated campsites are intended for occupancy for periods of overnight or longer. However, festivals and short-term outdoor events occur today which draw large attendance, and temporary camping is often provided. Attempting to meet the requirements of the existing Regulations for these short-term duration events has proven burdensome to property owners, and public health and safety can be protected with other controls in place. In order for these festivals and related events to proceed under the current regulations without undue hardship, waivers must be granted by the Commissioner. The Commissioner granted 44 waivers to allow for temporary camping throughout the Commonwealth in 2015, and 41 so far in 2016. Processing waiver requests drains limited staff resources away from mandated services provided by VDH, and can lead to regulatory inconsistency. Creating new requirements in the Regulations to govern short-term events will provide needed consistency and minimize waiver requests.

Primitive camping, commonly referred to as back country camping, zero-impact camping, or neutral footprint camping, is characterized by the absence of what are generally understood as modern conveniences. Requirements to provide numbered campsites, drinking water, solid waste disposal, and service buildings with modern sanitary facilities for all types of primitive camping is not only an undue hardship placed upon many campground owners, but is also not desired by all campers. By creating an allowance in the Regulations for primitive camping, campers will be permitted to provide their own water supply or means of waste disposal when camping, and campgrounds will not be required to provide numbered sites or showers and flush toilets. Creating distinct provisions for primitive camping areas will be less burdensome on campground owners, while still protecting public health and safety.

The Regulations currently do not require campground operators to have an emergency response plan in place. Campgrounds, having few or no permanent structures, can be high risk areas during natural disasters or other weather-related emergency events. The proposed amendments will better protect the safety of campers in Virginia by requiring campground operators to compose and maintain an emergency response plan that prepares for camper safety and potential evacuation, promote availability of emergency contact information for campers, and prepare for the communication of emergency response information to campers.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

- 1) Creates a new section, and repeals and replaces certain sections related to enforcement, penalties, constitutionality, and exemptions to comply with the APA.
- 2) Revises definition section for clarity, removes several definitions not used elsewhere in the regulation, and adds a definition for “Operator” and “Health Director”.
- 3) Revises the description of campground permits to include temporary camping permits, and establishes minimum requirements for campground inspection.
- 4) Adds a requirement for campgrounds utilizing private wells to test for coliform bacteria and nitrates on an annual basis.
- 5) Reorganizes provisions for sewage disposal and sanitary facilities for clarity.
- 6) Creates a new section of the Regulations that describes provisions for cabins and other lodging units.
- 7) Creates a requirement for emergency preparedness planning.
- 8) Creates a new section of the Regulations to address primitive campgrounds with exemptions and replacement requirements that will protect public health and safety.
- 9) Creates a new section of the Regulations to address temporary camping events with exemptions and replacement requirements that will protect public health and safety.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of the proposed amendments is that they will remove burdensome requirements for primitive and temporary camping, while still protecting public health and safety. The proposed

amendments will also provide organization and clarity to the existing text, which will better facilitate the public's understanding of the regulation. The agency and regulated businesses will benefit from these revisions as they will reduce or eliminate the need for waivers. Including provisions for cabins and other rental units in the regulations will reduce additional permitting requirements borne by both campground operators and the agency, as these units have been permitted under the Sanitary Regulations for Hotels (12VAC5-431-10 et seq.) in many local health districts. There are no anticipated disadvantages to the public or the Commonwealth with the adoption of these proposed amendments.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that exceed applicable federal requirements; there are no federal requirements that apply to campgrounds that aren't located on federal lands.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities which bear any identified disproportionate material impacts that would not be experienced by other localities.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Virginia Department of Health is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Comments may be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Olivia McCormick, 109 Governor St, Richmond, Virginia 23219, phone number: 804-864-8146, fax number: 804-864-7476, email address: Olivia.McCormick@vdh.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>Little to no additional cost for the state to implement; temporary and other campgrounds are already regulated and inspected by VDH. Amendments will reduce time spent by VDH on processing applications for waivers to the Regulations. Some local Health Districts have permitted cabins and other rental units under the hotel regulations, charging the campground operators a separate \$40.00 fee. These hotel permits will no longer be required for campground rental units, resulting in a very small reduction in revenue.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>Little to none, for the same reasons as above.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Campground operators, both permanent and temporary, operating in the state of Virginia.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>VDH issued 44 waivers for temporary camping in 2015, and 41 so far in 2016. Overall, temporary camping is on the rise in Virginia, and it is likely that there are events that offer temporary camping that have gone unpermitted by VDH in the past. There are 370 campgrounds currently permitted in the state of Virginia for 2016. Based on employing 500 or fewer employees, an estimated 95 to 100% of these campgrounds are small businesses.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>a) There will be a reduced administrative cost to temporary campground operators who have had to apply for waivers to the Regulations in order to obtain permits for temporary camping. Under the proposed amendments provisions for temporary camping will be clearly delineated to the regulated public, and they may plan for compliance under the permitting process. In the past, temporary camping events that utilize portable toilets have been required to meet a minimum ratio of one portable toilet for every 100 campers in lieu of waived requirements for permanent sanitary facilities. The proposed amendments will establish a minimum ratio of one portable toilet for every 75 campers, increasing portable unit requirements, although many temporary event organizers have elected to meet or improve upon this ratio at 2016 events. Portable toilets range in cost from \$75-100 without pump-out service for a weekend event, and many</p>

	<p>companies offer discounted prices (\$40-70 per unit for a weekend event) for higher numbers of units at larger festivals.</p> <p>Operators will have to provide soap and sanitary disposal bins for restrooms. The cost of soap will be minimal, and soap is already in place in many campground restrooms. Sanitary disposal bin cost ranges from approximately \$35-55 per unit. Required private well annual water samples for total coliform and nitrates will each cost operators between \$15-60 per year.</p> <p>The provisions for primitive campsites will include exemptions for the requirement to provide potable water and garbage disposal containers for campgrounds of ten campsites or less. This could save hundreds to thousands of dollars for operators, as private well drilling costs can range from \$3,000 to \$12,000 or more, with an average of about \$8,000. Primitive campground operators could also potentially avoid hundreds of dollars in vegetation control costs; these are difficult to estimate as they depend heavily on the specific campground site and the type of natural vegetation.</p> <p>b) The agency is not aware of any costs related to the development of real estate for commercial or residential purposes that are the result of the proposed regulatory changes.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The regulation will modernize requirements and reduce burdensome oversight, while protecting public health and safety.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Alternatives to amending this regulation would be to leave the regulation in place without any revision. However, this will result in a regulation that does not incorporate the latest public health principles and the continued burden on the public to submit waiver requests to allow for temporary camping. The proposed provisions should be less intrusive on property owners and less costly for the public in comparison to the existing regulation while ensuring public health and safety are protected.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance

or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

- 1) There are minimal reporting requirements associated with the proposed regulation. The proposed amendments streamline the approval process for temporary camping by eliminating a separate plan review component that currently exists. The compliance requirements of the proposed regulation should not be reduced or simplified, as the agency believes they establish the minimum standards required to protect public health and safety while providing the regulated public the flexibility to establish various business models for camping in Virginia.
- 2) No deadlines have been modified in the proposed amendments. The requirement that campground operators apply for a permit 30 days before a campground is to be opened, which is the only deadline in the regulation, is a necessity to allow for agency review and ensure due process is afforded to the applicant.
- 3) As noted above, there are only very minimal reporting and deadline requirements in the proposed amendments, and these cannot be further simplified or consolidated.
- 4) Design and operational requirements in the proposed amendments largely speak to the availability of restroom facilities and potable water. Provisions for different types of camping have been created to allow for variation in these requirements based on a number of factors. The proposed amendments also allow for campground operators to apply for variances to allow for alternate designs in lieu of the regulatory requirements.
- 5) Small businesses can readily comply with the requirements of the proposed amendments. Elimination of the requirements of this regulation will compromise the health and safety of camping participants in the state of Virginia, and may lead to disease or compromises in safety that may ultimately negatively affect Virginia's camping industry.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

N/A

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

There were no comments received during the public comment period following the publication of the NOIRA.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The impact of the proposed regulatory action on the institution of the family and family stability is from the perspective of the availability of safe recreational activity, in the form of camping, in the state of Virginia. The goal of the regulatory revision is to provide for public health and safety at a wide variety of campground types throughout Virginia. Risks to public health and safety could impact the family and family stability by affecting a family’s disposable income in the event of camping-related medical care costs, disease or injury- related absences from school or the workplace, and mental, physical, and emotional pain and suffering. By establishing revised regulatory guidelines for safe and healthy camping in Virginia the agency is encouraging citizens and visitors to take advantage of the widely-recognized benefits of experiencing the outdoors and the natural beauty of the state of Virginia.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-450-10	None	Definitions Section	The following definitions were amended to provide clarity to the regulations and ensure consistency in relation to agency practices: “Approved”, “Campgrounds”, “Camping Unit”, “Campsite”, “Emergency”, “Health Commissioner”, “Person”, “Primitive camps”, “Service building”, and “Sewage”. A definition for “Operator” was added. The following definitions were removed as they were not substantively used in the rest of the regulation: “Non-self-contained camping unit”, “Independent camping unit”, and “Outdoor bathing facilities.”
None	12VAC5-450-15	None	A new section was added to establish the applicability of the APA on the regulation

12VAC5-450-30	None	Requires the submission and approval of plans by a campground and criteria for such approval.	Minor changes to reduce wordiness and improve readability. Language was added that defers plan approvals for temporary campgrounds until the time of permit application.
12VAC5-450-40	None	Section outlines when a permit is required, the manner in which a permit is approved or revoked, and permit validity periods.	The section was modified to include language regarding the appeals process for those permits that were denied, changing the validity period of a permit to an annual renewal and including language regarding the period in which a permit is valid for temporary camping.
12VAC5-450-50	None	Section outlines the inspection of camping places	This section was expanded to establish inspection schedules for permanent and temporary campgrounds, with discretion for VDH to alter these schedules on a statewide level. Requirements for inspection reports were added, and requirements for registers were moved to section 150. Language regarding the right of inspection was revised for APA compliance.
12VAC5-450-60	None	Section outlines the agency's enforcement process including but not limited to notice of taking adverse actions and hearings.	This section clarifies language regarding the citation of regulatory violations, remediating such violations, the addition of language concerning informal fact finding conferences and the Health Commissioner's authority to take action in cases of threats to public health as it pertains to campgrounds. Language was revised to reflect APA requirements and VDH enforcement policies and procedures.
12VAC5-450-70	None	Section provides requirements regarding the location of certain structures (constructed and naturally occurring).	Minor changes to reduce wordiness and improve readability. Restrictions on campground locations near marshes, swamps, and landfills were revised to only prohibit campgrounds from locating inside these features.
12VAC5-450-80	None	Section provides the terms by which a campground shall provide water to the public.	Minor changes to reduce wordiness and improve readability. Approved water supplies for campgrounds were clarified as waterworks and, when appropriate, private wells. Provisions for infrastructure were clarified to apply to private wells, as the infrastructure of waterworks is governed by separate regulations. Revisions establish a requirement for private wells serving campgrounds to undergo and pass an annual water test for total coliform bacteria and nitrates. Revisions also prohibit open-bin type ice machines. The required distance between water and sewer connections at individual campsites was increased from five to ten feet to meet Office of Drinking

			Water requirements for waterworks. A provision was created for existing campgrounds to be exempted from this expanded distance requirement.
12VAC5-450-90	None	Section provides the terms by which a campground shall address disposal of sewage and liquid wastes.	Minor changes to improve readability and update terminology. This section was amended to relocate text regarding privies to section 100, as topically they should be addressed as part of the requirements for bathroom facilities. Provisions on greywater disposal were relocated from section 100, as topically they should be addressed alongside dump stations and bulk sewage disposal methods.
12VAC5-450-100	None	Section establishes the criteria for sanitary facilities.	Minor changes to reduce wordiness and improve readability. In addition to the rearrangements discussed above, this section revises the sanitary facility schedule for simplicity. Adjustments in facility number requirements when some campsites have alternate facilities available (such as cabins or sites that only serve RVs with facilities onboard), may be done at the time of permitting instead of through the granting of waivers. Sections were re-ordered to place topically-similar provisions adjacent to one another. Text on privies, relocated from section 90, was amended to restrict portable toilet use at permanent campgrounds to small campgrounds of 30 primitive campsites or less. Requirements for soap and sanitary disposal bins were added.
12VAC5-450-110	None	This section outlines the structural requirements for service buildings.	Addition of requirement that doors to exterior service buildings shall be self-closing.
None	12VAC5-450-115	None	This new section provides the requirements for cabins and other rental units. The section establishes the terms of maintaining and operating cabins and other rental units. Provisions were created for the sanitation of furniture, cook and dishware, and bedding when provided, the functionality of fire-protection devices when provided, and clearing space of bed arrangements.
12VAC5-450-130	None	Section establishes what insect, rodent and weed control is required of campgrounds.	This section was amended for clarity and amending the title of a previous regulatory board "Pesticide Control Board" to its current name, "Virginia Department of Agriculture and Consumer Services".
12VAC5-450-140	None	Section states swimming pools shall be subject to the Board's regulations.	The section title was amended to remove "outdoor bathing facilities", as these facilities are not mentioned in the section text, and the applicability of other

			regulations (12VAC5-460-10 et seq., 12VAC5-462-10 et seq.) was clarified.
12VAC5-450-150	None	Section outlines the safety requirements at a campground.	Text regarding a camper register was relocated from section 50, language was added to require the campground to develop and maintain an emergency response plan.
12VAC5-450-170	None	Section outlines requires the control of animals and pets at a campground.	Section was amended for clarity and adds "horses" to the list of animals whose facilities are required to be maintained in a sanitary condition.
12VAC5-450-180	None	Section prohibits the use of unapproved overflow areas.	Statement was added to clarify intended usage of overflow areas.
None	12VAC5-450-183	None	This new section establishes the provisions for the permitting of a campground or portion of a campground for primitive camping, and lists the exemptions to other parts of this chapter (defined sizes and labeling with number and section, portable water and garbage disposal requirements when campground has ten campsites or less, lavatory and shower requirements, and vegetation control measures) that apply to primitive camping.
None	12VAC5-450-187	None	This new section lists exemptions to this chapter that apply to temporary campgrounds. These exemptions include density, minimum size, and campsite labeling requirements, portions of the potable water requirements, dump station and slop sink requirements, and requirements for permanent sanitary facilities. Alternative provisions are established to replace the exempted provision areas, which include requirements to ensure safe ingress and egress from campgrounds, allowances to use bottled water for temporary camping events, minimum safety standards for water hauled in from approved sources, provisions for greywater disposal and the removal of sewage from RV holding tanks, requirements for portable handwashing sinks or hand sanitizer, and requirements for minimum ratios of campers to portable toilets.
12VAC5-450-190	None	Section outlines the process by which one or more regulations of this chapter may be waived.	Section title and text was amended to replace waiver with variance; this substitution will bring terminology in line with other VDH regulations and reflect that sections may be waived all or in part. Language was added regarding the Health Commissioner's responsibility to issue a case decision regarding a variance request and the named parties'

			right to appeal under the Administrative Process Act.
12VAC5-450-200	None	This section establishes penalties for regulatory violations.	Section was amended to remove specific fines and state persons who are found in violation of this chapter are subject to penalties under § 35.1-7 of the Code of Virginia.
12VAC5-450-210	None	Section referenced the matter if a section of this chapter is found invalid or unconstitutional.	Section repealed.
12VAC5-450-230	None	Section references exemptions to the chapter's regulations.	Section repealed, described exemptions that expired two years after the effective date of the 1971 regulation.

DEPARTMENT OF HEALTH
Amend Campground Regulations Following Periodic Review

1 12VAC5-450-10. Definitions.

2 For the purpose of this chapter, the following terms shall have the meanings respectively
3 indicated unless another meaning is clearly intended or required by the context.

4 "Approved" means a procedure of operation or construction which is in accordance with the
5 standards established by the Virginia Department of Health, or which is acceptable to the Health
6 Commissioner based on ~~his~~a determination as to the conformance with appropriate standards
7 and good public health practice.

8 "Campgrounds" means and includes, but is not limited to tourist camps, travel trailer camps,
9 recreation camps, family campgrounds, camping resorts, camping communities, or any other
10 area, place, parcel or tract of land, by whatever name called, on which three or more campsites
11 are occupied or intended for occupancy, or facilities are established or maintained, wholly or in
12 part, for the accommodation of camping units for periods of overnight or longer, whether the use
13 of the campsites and/or facilities is granted gratuitously, by a rental fee, by lease, by conditional
14 sale or by covenants, restrictions and easements. This definition is not intended to include
15 summer camps, and migrant labor camps as defined in §§ 35.1-16 and 32.1-203 of the Code of
16 Virginia, construction camps, ~~permanent mobile~~manufactured home parks, ~~or~~ storage areas for
17 unoccupied camping units, or property upon which the individual owner may choose to camp
18 and not be prohibited or encumbered by covenants, restrictions and conditions from
19 providing ~~his~~ sanitary facilities within ~~his~~established property lines.

20 "Camping unit" means and includes tents, tent trailers, travel trailers, camping trailers, pick-
21 up campers, motor homes, yurts, cabins, or any other device or vehicular-type structure as may
22 be developed marketed and used by the camping trade for use as temporary living quarters or
23 shelter during periods of recreation, vacation, leisure time, or travel.

24 "Campsite" means and includes any plot of ground within a campground used or intended
25 for the exclusive occupation by a camping unit or units ~~under the control of a camper.~~

26 "Emergency" means a condition ~~that in the exercise of the sound discretion of the Health~~
27 ~~Commissioner is found~~ to be deleterious to the public health, safety, and welfare and requires
28 immediate action, as determined by the Health Commissioner.

29 "Health Commissioner" means the chief executive officer of the State Board of Health or ~~his~~
30 authorized agent.

31 ~~"Independent camping unit" means a unit which contains a water-flushed toilet, lavatory,~~
32 ~~and shower as an integral part of the structure, and which that requires an on-site sewer~~
33 ~~connection due to the absence of a waste holding tank on the unit.~~

34 ~~"Non-self-contained camping unit" means a unit which is dependent upon a service building~~
35 ~~for toilet and lavatory facilities.~~

36 ~~"Outdoor bathing facilities" means lakes, ponds, rivers, tidal waters, impoundments,~~
37 ~~beaches, streams or other places, whether natural or man-made, in which an area is held out~~
38 ~~for swimming or bathing purposes.~~

39 "Operator" means any person employed or contracted by a campground owner who is
40 responsible for the management and general administrative operation of the campground.

41 "Overflow area" means a plot of ground in or adjacent to the campground set apart for
42 accommodating those campers for whom no designated sites are available in the general
43 geographical area, and which is subject to certain restrictions as to size, length of stay,
44 temporary facilities, etc.

45 "Overnight" means the occupation of a camping unit as a temporary habitation between the
46 hours of 7 p.m. and 7 a.m., or major portion thereof.

47 "Permit" means a written permit issued by the Health Commissioner authorizing a
48 designated person to operate a specific camping place.

49 "Person" means and ~~include~~ includes any individual or group of individuals, named
50 party, partnership, firm, private or public association or corporation, state, county, city, town, or
51 anyone who by covenant, restriction, or agreement has care, control, custody, ownership, or
52 management of property or parts thereof, or any combination of the above or other legal entity.

53 ~~"Primitive camps~~campsites" means ~~camps~~campsites which are characterized by the
54 absence of what is generally understood as modern conveniences such as water-flushed
55 toilets, showers, sinks, and electrical connections. ~~A campground shall be classified as a~~
56 ~~primitive camp when half or more of the required number of toilet seats are nonflush type.~~

57 "Self-contained camping unit" means a unit which contains a water-flushed toilet, lavatory,
58 shower, and kitchen sink, all of which are connected, as an integral part of the structure, to
59 water storage and sewage holding tanks located within the unit.

60 "Service building" means a structure housing ~~toilet~~ toilets, showers, or lavatories.

61 "Sewage" means ~~the~~ water-carried and nonwater-carried human excrement, from service
62 buildings, sanitary stations, camping units or other places together with such kitchen, laundry,
63 or shower, bath, or lavatory wastes separately or together with such underground surface,
64 storm, or other water and liquid industrial waste as may be present, from residences, buildings,

65 vehicles, industrial establishments or other places. Other places include service buildings,
66 dump stations, campsites, and camping units.

67 "Swimming pool" means any swimming, wading or spray pool, including all appurtenant
68 equipment, structures and facilities provided for the use of the campers.

69 **12VAC5-450-15. Compliance with the Virginia Administrative Process Act.**

70 The provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of
71 Virginia) shall govern the promulgation and administration of this chapter, including the
72 procedures for rendering and appealing any case decision based upon this chapter.

73 **12VAC5-450-30. Approval of plans required.**

74 A. In order to ~~insure~~ ensure the provision of adequate, properly designed sanitation facilities
75 at campgrounds, any person planning construction, ~~major alteration~~ renovation, or ~~extensive~~
76 addition to any campground shall, prior to the initiation of any such construction, submit to ~~the~~
77 ~~Health Commissioner, through~~ the local health department in the county in which the proposed
78 project is located, complete plans or statements which show the following, as applicable:

- 79 1. The proposed method and location of sewage disposal system.
- 80 2. The proposed sources and location of the water supply.
- 81 3. The number, location, and dimensions of all campsites.
- 82 4. The number, description, and location of proposed sanitary facilities such as
- 83 toilets, privies, dump stations, sewer lines, etc.
- 84 5. ~~Name~~ The Name and address of applicant.
- 85 6. ~~Location~~ The location, boundaries, and dimensions of the proposed project.
- 86 7. Such other pertinent information as the Health Commissioner may deem necessary.

87 B. When, upon review of the plans, the Health Commissioner is satisfied that the proposed
88 plans, if executed, will meet the requirements of this regulation and other pertinent laws and
89 regulations designed to protect the public health, written approval shall be issued.

90 C. When upon review of the plans, the Health Commissioner determines that the proposed
91 plans ~~preclude~~ prevent a safe, sanitary operation, the plans shall be disapproved and the
92 applicant shall be notified in writing of any deficiency in the plans that constitute the basis for
93 disapproval.

94 D. No person shall begin construction, major alteration, or addition to a campground until
95 written approval has been granted by the Health Commissioner.

96 E. If construction is not begun within one year from the date of the approval of the plans,
97 such approval shall be ~~considered~~ null and void.

108 F. All construction, ~~reconstruction~~renovation, or alteration shall be done in accordance with
109 and limited to work covered by the plans and recorded changes which have been approved by
110 the Health Commissioner.

111 G. Any person whose plans have been disapproved may request and shall be granted
112 a ~~hearing~~ an appeal as described by Code of Virginia § 2.2-4000 et seq. ~~on the matter under the~~
113 ~~procedure provided by 12VAC5-450-60.~~

114 H. Owners or operators of temporary campgrounds shall submit complete plans as
115 described in 12VAC5-450-30A as a part of the permit application. No written approval of this
116 material is required separate from the campground permit.

117 **12VAC5-450-40. Permits.**

118 A. No person ~~or persons~~, directly or indirectly, shall conduct, control, manage, operate, or
119 maintain a campground, or offer campsites for occupancy within the Commonwealth, without
120 first making application for and receiving a valid permit from the Health Commissioner for the
121 operation of said ~~camp~~ campground.

122 B. ~~Any campground for which a permit was not issued during the previous year~~ An
123 authorized representative of a campground shall file an application for a permit with the local
124 health department ~~in writing on a form~~ and in a manner prescribed by the Health Commissioner
125 at least 30 days before such camp is to be opened.

126 C. If, after receipt of an application to operate a campground, the Health Commissioner finds
127 ~~that the campground is~~ does not in compliance ~~comply with the provisions~~
128 ~~of this~~ these regulations, ~~he~~ the Health Commissioner shall notify the applicant in writing citing
129 the noncomplying items that constitute ~~his~~ the reasons for denying ~~the~~ a permit, and providing
130 the applicant with the opportunity for administrative process as provided by Code of Virginia §
131 2.2-4000 et seq.

132 D. ~~A permit may be revoked by the Health Commissioner, or his authorized agent, if he finds~~
133 ~~that the camp for which the permit was issued is operated, maintained, or occupied in violation~~
134 ~~of this chapter, or any law, ordinance or regulation applicable to such establishments, or in~~
135 ~~violation of the conditions stated in the permit.~~ If the Health Commissioner finds that the
136 campground complies with these regulations, a permit shall be issued. Permits may be issued
137 to the campground's owner or operator.

138 E. The permit shall be conspicuously posted in the office of the ~~camp~~ campground or on the
139 premises if no office is available.

140 F. Permits shall either be annual ~~The permit shall not be transferable~~ and shall expire ~~on~~
141 ~~December 31 of each~~ 12 months-year from the date of issuance, unless stated otherwise in

132 ~~special permits such as~~ or may be temporary and granted for a specific period of
133 time temporary permits that may be granted by the Health Commissioner to allow a reasonable
134 time to conform to the requirements of this chapter, or to correct existing violations to allow
135 temporary camping of 14 days duration or less. Temporary permits may be valid for periods of
136 60 days or less, but the total days of operation may not exceed 14 days during a 60 day period.
137 Permits shall not be transferable.

138 **12VAC5-450-50. Inspection of camping places.**

139 A. ~~The Health Commissioner is hereby authorized and directed to~~ shall make conduct such
140 inspections ~~as are~~ necessary to determine satisfactory compliance with this chapter, including
141 the following:

142 1. Before permit issuance, the Health Commissioner shall conduct one or more
143 preoperational inspections of annually-permitted campgrounds that have not been permitted in
144 the previous year; that have undergone modifications in their water delivery, sewage
145 conveyance, or sewage disposal systems; that have modified their sanitary facilities; or that
146 have changed the number of offered campsites since the issuance of their last annual permit.

147 2. Annually-permitted campgrounds shall be inspected at least once per permit period.

148 3. Temporary campgrounds shall be inspected at least once during each operational period.

149 4. Campground inspection schedules may be adjusted if the Virginia Department of Health
150 develops a written risk-based plan for adjusting the frequency of inspections, and this plan is
151 uniformly applied throughout the Commonwealth.

152 B. ~~Upon presentation of appropriate credentials and consent of the owner, permit holder,~~
153 or authorized agent of the owner or permit holder, the Health Commissioner shall be the duty of
154 the operator or occupant(s) of a campground to give the Health Commissioner be given free
155 access to such premises at reasonable times for the purpose of inspection, in accordance with §
156 35.1-5 of the Code of Virginia.

157 C. Whenever an inspection is conducted, a completed inspection report shall be provided to
158 the permit holder of the campground. The inspection report shall contain descriptions of
159 observed alleged violations, and citations to the alleged regulatory violations. The report shall
160 establish reasonable timelines for compliance with this chapter, and provide an opportunity for
161 due process in accordance with § 2.2-4000 et seq. of the Code of Virginia.

162 G. ~~A register shall be kept indicating name and address of the camper, the date of the~~
163 campsite occupancy, and the number of the campsite occupied. Such register shall be made
164 available to the Health Commissioner, upon request, during his inspection of the campground.

165 **12VAC5-450-60. Enforcement, notices, hearingsinformal conferences.**

166 A. ~~Whenever the Health Commissioner finds violations of this chapter, an inspection report~~
167 ~~shall be filled out and left with the person in charge of the campground. Such inspection report~~
168 ~~shall be legible, contain written notation of the violation and remedial action to be taken to effect~~
169 ~~compliance with this chapter.~~

170 B. ~~If, after a reasonable time has elapsed for the correction of noted items, the violation is~~
171 ~~found to continue to exist, a formal notice shall be issued which; (i) includes a written statement~~
172 ~~of the reasons for its issuance; (ii) sets forth a time for the performance of the corrections; (iii) is~~
173 ~~served upon the operator or his agent; Provided: that such notice shall be deemed to have been~~
174 ~~properly served upon such operator or agent when a copy has been sent by certified mail to his~~
175 ~~last known address; or when he has been served with such notice by any other method~~
176 ~~authorized or required by the laws of this Commonwealth; (iv) contains an outline of remedial~~
177 ~~action which, if taken will effect compliance with the provisions of this chapter; (v) informs the~~
178 ~~person to whom the notice is directed of his right to a hearing and of his responsibility to request~~
179 ~~the hearing and to whom the request should be made.~~

180 C. ~~Periods of time allowed to elapse between notation of the violation on the inspection~~
181 ~~report and issuance of a formal notice, and time allowed in formal notice for performance of~~
182 ~~correction shall depend upon the nature and seriousness of the violation, but shall generally not~~
183 ~~exceed 30 days.~~

184 DA. ~~Whenever the Health Commissioner finds that an emergency exists which requires~~
185 ~~immediate action to protect the public health, he may, without notice or hearing, issue an order~~
186 ~~reciting the existence of such an emergency and requiring that such action be taken as he may~~
187 ~~deem necessary to meet the emergency including the suspension of the permit. The Health~~
188 Commissioner may, after providing a notice of intent to revoke the permit, and after providing an
189 opportunity for an informal conference in accordance with § 2.2-4019 of the Code of Virginia,
190 revoke a permit for flagrant or continuing violation of this chapter. Notwithstanding any other
191 provisions of this chapter, such order shall be effective immediately. Any person to whom
192 such an order a notice of revocation is directed shall comply therewith immediately. Upon
193 revocation, the former permit holder shall be given an opportunity for appeal of the revocation in
194 accordance with § 2.2-4000 et seq. of the Code of Virginia. , by upon petition to the Health
195 Commissioner, shall be afforded a hearing as soon as possible.

196 B. The Health Commissioner may summarily suspend a permit to operate a campground if
197 continued operation constitutes a substantial and imminent threat to public health. Upon receipt
198 of such notice that a permit is suspended, the permit holder shall cease campground operations

199 immediately and begin corrective action. Whenever a permit is suspended, the holder of the
200 permit shall be notified in writing by certified mail or by hand delivery. Upon service of notice
201 that the permit is immediately suspended, the former permit holder shall be given an opportunity
202 for an informal conference in accordance with § 2.2-4019 et seq. of the Code of Virginia. The
203 request for an informal conference shall be in writing and shall be filed with the local health
204 department by the former holder of the permit. If written request for an informal conference is
205 not filed within 10 working days, the suspension is sustained. Each holder of a suspended
206 permit shall be afforded an opportunity for an informal conference, within three working days of
207 receipt of a request for the informal conference. The director may end the suspension at any
208 time if the reasons for the suspension no longer exist.

209 EC. Any person affected by any a notice which has been determination issued in connection
210 with the enforcement of any provision of this chapter may request and shall be granted a
211 hearing challenge such determination in accordance with the provisions of Title 9, Chapter
212 4.1-1 § 2.2-4000 et seq. of the Code of Virginia of the Administrative Process Act.

213 F. If a request for a hearing is not made within 10 days after the receipt of a formal notice of
214 violation of this chapter, or correction of the violation has not taken place within the prescribed
215 time, the permit may be revoked and the continued operation of the campground shall be
216 considered unlawful.

217 GD. All campgrounds shall be constructed, operated, and maintained in compliance with the
218 requirements as set forth in this chapter. The Health Commissioner may enforce this chapter
219 through any means lawfully available pursuant to §§ 32.1-27 and 35.1-7 of the Code of Virginia,
220 and Nothing nothing in this chapter shall be construed as preventing the Health Commissioner
221 from making efforts to obtain voluntary compliance through warning, conference, or any other
222 appropriate enforcement means.

223 **12VAC5-450-70. Location.**

224 A. Each campground shall be located on ground which has have good surface drainage
225 and which is be free of natural and man-made hazards such as mine pits, shafts and
226 quarries. Camps Campgrounds shall not be located on ground which is in or adjacent to
227 swamps, marshes, landfills or abandoned landfills, or breeding places for insects or rodents of
228 public health importance, unless adequate, approved safeguards or preventive measures are
229 taken.

230 B. The density of campsites in a campground shall not exceed an average of 20 campsites
231 per acre inclusive of service roads, toilet buildings, recreational areas, etc.

232 C. Each campsite (including parking space) shall provide a minimum of 1600 square feet of
233 space and shall not be less than 25 feet at its narrowest point.

234 D. Each campsite shall be identified by number and section. Camping units within a
235 campground shall be required to locate within the designated campsites.

236 **12VAC5-450-80. Water supplies.**

237 A. ~~The water supply, storage reservoirs and distribution system shall be approved by the~~
238 ~~Health Commissioner. An adequate supply of safe, sanitary, potable water shall be provided.~~
239 ~~The water supply shall either be an approved private well or a permitted~~
240 ~~waterworks. Waterworks must be maintained and operated in compliance with 12VAC5-590-10~~
241 ~~et seq., and private wells shall be constructed, maintained, and operated in compliance with~~
242 ~~12VAC5-630-10 et seq. Additionally, campgrounds utilizing private wells for potable water shall~~
243 ~~sample and test for total coliform and nitrate annually and prior to permit application; water shall~~
244 ~~be satisfactory for the total coliform standards identified in 12VAC5-630-370, and shall not have~~
245 ~~more than 10 mg/L nitrate (N). Samples shall be analyzed by a laboratory certified by the~~
246 ~~Department of General Services, Division of Consolidated Laboratory Services.~~

247 B. ~~An adequate supply of safe, sanitary, potable water capable of supplying a total capacity~~
248 ~~of at least 50 gallons per campsite per day if privies are used, and at least 100 gallons per~~
249 ~~campsite per day if water-flushed toilets are used, Water shall be provided at one or more easily~~
250 ~~accessible locations within the camping area campground. The water system shall be capable~~
251 ~~of meeting the demand for Adequate water storage facilities shall be provided to meet the~~
252 ~~demands for water during periods of peak use by the campers campground.~~

253 C. Water delivery systems utilizing private wells as a water source must meet the following
254 construction and operational standards: All water storage reservoirs shall be covered, watertight
255 and constructed of impervious material. Overflows and vents of such reservoirs shall be
256 effectively screened. Manholes shall be constructed with over-lapping covers so as to prevent
257 the entrance of contaminating material. Reservoir overflow pipes shall discharge through an
258 acceptable air gap. All cross connections between approved and unapproved water supply
259 systems are prohibited, and all water supplies shall be protected against the hazards of
260 backflow or back siphonage

261 D. ~~All cross connections, between approved and nonapproved water supply systems are~~
262 ~~prohibited, and the supply shall be protected against the hazards of backflow or back~~
263 ~~siphonage.~~

264 ~~E~~D. ~~Drinking fountains and water coolers, if provided, shall be of an approved type.~~
265 Common water coolers, drinking cups, glasses, or vessels are prohibited.

266 ~~FE.~~ Unsafe Unapproved wells or springs in the camp area campground shall be eliminated
267 or made inaccessible for human consumption.

268 ~~GF.~~ All ice provided shall be from an approved source. ~~All ice, and shall be handled and~~
269 ~~stored in such a manner as to prevent contamination. Ice-making machines shall be of~~
270 ~~approved construction~~ automatic dispensing and water shall be from a source approved under
271 12VAC5-450-80 A; open-bin type ice machines are prohibited.

272 ~~HG.~~ Portable water tanks or watering stations shall not be approved, ~~except in emergencies,~~
273 ~~and then unless such tanks, stations and dispensing are reviewed and shall be approved by the~~
274 Health Commissioner.

275 ~~IH.~~ The area surrounding a pump or hydrant used for a water supply shall be maintained in
276 a properly drained and sanitary condition, to prevent the accumulation of standing water or the
277 creation of muddy conditions.

278 ~~IJ.~~ The connection for potable water piped to individual campsites shall be ~~so~~
279 installed so that it will not be damaged by the parking of camping vehicles.

280 ~~KJ.~~ If installed above the ground, the riser shall terminate at least four inches above the
281 ground surface. If installed in a pit, the riser shall terminate at least 12 inches above the floor of
282 the pit, and the pit shall be drained to prevent it from containing standing water. The drain for
283 the pit shall not be connected to a sanitary sewerage system.

284 ~~LK.~~ If a water connection and a sewer connection are provided at ~~individual~~
285 a campsites campsite, the two connections shall be separated by a minimum horizontal
286 distance of ~~five~~ 10 feet. Campgrounds that have been issued a permit before [insert the
287 effective date of this regulation] shall be exempt and required to maintain a minimum horizontal
288 distance of five feet between water and sewer connections. If an exempt campground conducts
289 construction or renovation activity impacting water and sewer connections, current regulations
290 shall apply to all campsites where work is conducted. Normal maintenance work will not
291 constitute construction or renovation.

292 ~~ML.~~ Adequate provisions shall be made to prevent the freezing of service lines, valves, and
293 riser pipes.

294 **12VAC5-450-90. Sewage disposal.**

295 A. Every campground shall be provided with an approved method of collection, conveying,
296 and disposing of all sewage and liquid wastes.

297 ~~B. Privies shall be an acceptable method of sewage disposal when the location, design,~~
298 ~~construction, and quantity have been approved by the Health Commissioner provided their use~~
299 ~~is not prohibited or restricted by local requirements.~~

300 ~~EB.~~ All methods or systems of collecting and disposing of sewage and liquid wastes,
301 whether temporary or permanent, shall be subject to the approval of the Health Commissioner.

302 ~~EC.~~ It shall be unlawful to discharge sewage, sink waste water, shower waste water, or
303 other putrescible wastes in such a manner as to enter the ground surface, ~~or~~ subsurface, or a
304 body of water, except following a treatment device or process approved prior to construction by
305 the Health Commissioner.

306 ~~ED.~~ A sanitary or Campgrounds shall provide a dump station for the disposal of sewage and
307 other liquid wastes from self-contained camping units ~~shall be provided which that~~ complies with
308 the following requirements:

309 1. Campgrounds having less than 200 campsites shall provide a minimum of
310 one ~~sanitary~~ dump station, unless all campsites that allow self-contained camping units
311 provide direct sewer connections.

312 2. Campgrounds having more than 200 campsites shall provide an additional ~~sanitary~~
313 dump station for each additional 200 campsites or major fraction thereof, provided that
314 campsites equipped with sewer connections shall not be included in the total.

315 3. Where two or more ~~sanitary~~ dump stations are required they shall be so located as to
316 facilitate the simultaneous discharge of sewage wastes from different units.

317 4. Each ~~sanitary~~ station shall be so located and designed as to be easily accessible and
318 facilitate ingress and egress for camping vehicles.

319 ~~EE.~~ The ~~sanitary~~ dump station shall consist of the following:

320 1. A four-inch sewer pipe trapped below the frost line connected to an approved sewage
321 disposal system or suitable holding tank.

322 2. The sewer pipe, at the inlet, shall be surrounded by a reinforced, concrete apron
323 sloped to drain to the sewer pipe.

324 3. The minimum dimensions of the concrete apron shall be 36 inches wide, 60 inches
325 long and four inches thick. The sewer pipe shall be located such that the major portion of
326 the apron will project under the camping unit when it is discharging.

327 4. The inlet of the sewer pipe shall be provided with a suitable fly-tight cover.

328 5. The ~~sanitary~~ station shall be provided with a water outlet to permit wash down of the
329 immediate area after each use and so arranged as to prevent a cross-connection or
330 back siphonage.

331 6. Each water outlet used for such purposes shall display a sign stating, in effect,
332 "Notice: Unsafe Water Outlet-This water is for wash-down purposes only."

333 F. A slop sink or suitable drain shall be provided within 500 feet of all campsites for the
 334 disposal of liquid cooking and wash water wastes, unless a dump station is accessible for this
 335 purpose. Adequate provision shall be made by the permit holder of a campground to assure that
 336 the slop sink or other suitable drain is kept in a sanitary condition and is used for the purpose for
 337 which it was intended.

338 G. Individual sewer connections for camping vehicles, if provided, shall be installed in
 339 accordance with the following provisions:

340 1. The individual sewer (equivalent to the building sewer for a permanent building), shall
 341 be at least four inches in diameter, shall be trapped below the frost line, and shall be laid
 342 at depths sufficient to provide adequate protection against physical injury.

343 2. The sewer inlet shall consist of a four inch riser extending, at a minimum, four inches
 344 above the surface of the surrounding ground to accommodate a hose connection from
 345 the camping vehicle, or so designed as to divert surface drainage away from the riser.
 346 The riser shall be imbedded firmly in the ground and be protected against heaving and
 347 shifting.

348 3. The sewer riser shall be equipped with a standard ferrule and close nipple provided
 349 with a tight cap or expanding sewer plug. The screw cap or sewer plug shall be fastened
 350 by a durable chain to prevent removal while the sewer riser is in use. When the sewer
 351 riser is not in use, it shall be capped or plugged.

352 4. The sewer hose between the camping vehicle drain and the sewer riser shall be
 353 watertight, and shall be of flexible, noncollapsible, corrosion and weather-resistant
 354 material of suitable diameter to fit the camping vehicle drain. Its lower end shall be
 355 secured into the open sewer riser with a gasket of rubber or other suitable material. All
 356 joints shall be effected so as to prevent the leakage of sewage, odor or prevent the
 357 entrance of rodents.

358 **12VAC5-450-100. ~~Service buildings.~~ Sanitary facilities**

359 A. Each campground shall ~~be provided with one or more service buildings which~~
 360 ~~contain~~ provide an adequate number of ~~toilet and~~ sanitary facilities. The minimum ratio of
 361 sanitary facilities to the number of campsites ~~shall be provided according to~~ is established in the
 362 following schedule. Facilities shall either be gender-balanced in number, or single-occupant
 363 access with no gender designation.

No. Sites/Campsites	Toilets		Urinals	Lavatories		Showers*		Other Fixtures
	M	W	M	M	W	M	W	-
1 - 15	1	1	0	1	1	1	1	1 slop drain

16 - 30	2	24	0	2	24	1	12	-
31 - 45	2	36	1	3	36	1	12	See Subsection F of this section
46 - 60	3	48	1	3	36	2	24	-
61 - 75	4	510	1	4	48	2	24	-
76 - 90	4	612	2	4	48	2	24	-
91 - 105	5	714	2	4	48	3	36	-
106 - 120	6	816	2	5	510	3	36	-
121 - 135	6	918	3	5	510	3	36	-
136 - 150	7	1020	3	5	510	4	48	-

*The providing of showers in the service building(s) is optional on the part of the campground owner, but when showers are provided the schedule will apply.

364 B. For campgrounds having more than 150 campsites located, ~~in the opinion of the Health~~
365 ~~Commissioner, contiguously~~ contiguous to the service building or buildings required by the
366 schedule in subsection A, there shall be provided ~~one~~ two toilet ~~seat~~ seats and ~~one~~ two lavatory ~~two~~
367 ~~lavatories~~ for each sex for each additional 30 campsites,
368 and ~~one~~ two additional shower ~~showers~~ for each additional 40 campsites and ~~one~~ additional
369 ~~men's urinal for each 100 campsites.~~ Regardless of the number of campsites, Whenwhen a
370 ~~section or sections of a campground are found to be~~ incontiguous-non-contiguous, the Health
371 Commissioner ~~may~~ shall apply the schedule in subsection A above ~~in determining the adequacy~~
372 ~~of the fixtures for such section of the campground.~~ Whenever the number of campsites fall in
373 ~~between the numbers listed above, the larger number of required fixtures shall apply when a~~
374 ~~major fraction of the difference in the two numbers is attained.~~

375 C. Campsites used solely for self-contained camping units or cabins with approved sewage
376 disposal shall not count towards the number of campsites used to determine the minimum
377 number of fixtures required in subsections A and B above. If all campsites in a campground are
378 used solely for self-contained camping units or cabins, then the campground shall provide the
379 required number of facilities for a campground of 15 campsites or less.

380 D. When a campground is operated in connection with a resort or other business operation,
381 the campground facilities provided shall be in excess of those required by the schedules in
382 subsections A and B above by the number of facilities required by the Virginia Statewide
383 Building Code, or other applicable regulation.

384 C. ~~Primitive camps shall be exempted from the provisions for lavatories and showers. If,~~
385 ~~however, any showers are provided at a campground designated as a primitive camp, the~~
386 ~~schedule in subsections A and B shall apply.~~

387 F. Privies of a type approved by 12VAC5-610-980 may be substituted for flush toilets and
388 shall be provided according to the schedule in subsection A. Where present, privies shall be
389 maintained in good repair, pumped as needed, and kept clean and sanitary at all times. When
390 portable privies are used to meet the requirements of the schedule in subsection A, they shall
391 not serve non-primitive campsites or more than 30 campsites in a campground.

392 DG. Urinals may be substituted for up to one half of the required male
393 toilets. Where existing urinal troughs are used, two feet of urinal trough shall constitute one
394 urinal.

395 ~~E. Exemptions. Any person desiring to furnish temporary facilities for accommodating a~~
396 ~~travel trailer rally, or other group of camping units assembled for the purpose of traveling~~
397 ~~together, shall make application for such activity to the Health Commissioner through the local~~
398 ~~health department having jurisdiction, 15 days in advance of the intended date of use. The~~
399 ~~requirements for a service building may be waived by the Health Commissioner on the~~
400 ~~determination that public health will not be endangered; but the location of the site, the facilities~~
401 ~~which must be provided, and the method of conducting such rally shall be acceptable to the~~
402 ~~Health Commissioner before a special permit shall be issued specifying the location of the site,~~
403 ~~the period of operation not to exceed seven days, and any conditions of issuance.~~

404 ~~F. A slop sink or suitable drain shall be provided within 500 feet of all campsites for the~~
405 ~~disposal of liquid wastes unless a sanitary station is accessible for this purpose. Adequate~~
406 ~~provision shall be made by the operator of a campground to assure that the slop sink or other~~
407 ~~suitable drain, if necessary, is kept in a sanitary condition and is used for the purpose for which~~
408 ~~it was intended such as the disposal of dish water and wash water.~~

409 ~~G. Lavatories shall be provided adjacent to the toilet fixtures.~~

410 ~~H. When a campground is operated in connection with a resort or other business~~
411 ~~establishment, the total number of sanitary facilities shall be in excess of those required by the~~
412 ~~aforementioned schedules and shall be based on the total number of persons using such~~
413 ~~facilities.~~

414 ~~I. Service buildings shall be located no farther than 500 feet from any campsite served by~~
415 ~~such building, nor closer than 30 feet to any campsite. When two or more service buildings~~
416 ~~exist, the ratio of fixtures as specified in subsections A and B shall be in approximate relation to~~
417 ~~the number of campsites located within a 500 foot radius of each building.~~

418 ~~JH. All service buildings or other restroom facilities and the commodes toilets, urinals,~~
419 ~~lavatories, ~~shower~~ showers and other appurtenances located therein shall be maintained in a~~

420 state of good repair and shall be kept in a clean and sanitary condition at all times. Toilet and
421 shower rooms shall not be used for miscellaneous storage during operation of the campground.

422 ~~K. All doors to the exterior from service buildings shall be self-closing.~~

423 ~~L. Toilet rooms, shower rooms and other areas receiving heavy camper use shall not be~~
424 ~~used for miscellaneous storage during operation of the camp.~~

425 MI. Toilet tissue shall be provided at each privy or toilet seat, and a covered receptacle
426 for sanitary product disposal shall be provided at each privy and female toilet. Where provided,
427 lavatories shall be in the immediate vicinity of toilet fixtures, and soap and a method of hand
428 drying shall be provided.

429 NJ. Shower compartments, whether individual type with partitions, or group type without
430 partitions, shall have not less than 1,024 square inches in floor area and, if rectangular, square
431 or triangular in plan, shall be not less than at least 30 inches in shortest dimension.

432 K. Sanitary facilities shall be located no farther than 500 feet from any campsite served by
433 such building, nor closer than 30 feet from any campsite. However, privies shall be no closer
434 than 50 feet from any campsite. When two or more service buildings exist, the ratio of fixtures
435 as specified in subsections A and B shall be in approximate relation to the number of campsites
436 located within a 500 foot radius of each building.

437 ~~O. In a campground where there is a combination of campsites, part of which are provided~~
438 ~~with a water connection and a sewer outlet, the minimum number of fixtures as required in~~
439 ~~subsections A and B above may be adjusted by the Health Commissioner based on individual~~
440 ~~conditions provided any request for an adjustment complies with 12VAC5-450-190.~~

441 **12VAC5-450-110. Structural requirements for service buildings.**

442 A. All portions of the structure shall be properly protected from damage by ordinary use and
443 by decay and corrosion. Exterior portions shall be of such material and be so constructed and
444 protected as to prevent entrance or penetration of moisture and weather.

445 B. Effective ventilation of all service buildings shall be provided to prevent condensation,
446 moisture and odors.

447 C. Interior of service buildings shall be finished in a light color and provided with adequate
448 natural or artificial illumination, or both.

449 D. The floors of toilet and shower rooms shall be sloped to a properly trapped floor drain
450 connected to the sewerage system.

451 E. Partitions between flush toilets in the same room shall be raised a minimum of eight
452 inches from the floor to permit easy cleaning.

453 F. The interior finish of such buildings shall be of moisture resistant and easily cleanable
454 material which will withstand frequent washing and cleaning. Special attention shall be given
455 wall finishes immediately around lavatories, urinals, commodes and in showers to insure a
456 surface in these heavily used areas which will withstand commercial use.

457 G. The floors shall be constructed of material impervious to water and be of easily cleanable
458 material. Duck boards or walk ways made of wood or other absorptive material shall not be
459 permitted.

460 H. All windows and openings to the outside from areas containing commodes and urinals
461 shall be provided with fly-proof screening material of at least 16 mesh per inch.

462 I. Water closets and bathing facilities shall not be located in the same compartment.

463 J. Permanent service buildings shall be provided with an artificial light at the entrance to the
464 building to facilitate its use at night: ~~Provided, that primitive~~ Primitive camps with privies may
465 be are exempted from this requirement.

466 K. Service buildings shall have appropriate signs to ~~denote its use~~ such as "Men's Toilet,"
467 "Women's Toilet," "Showers," etc.

468 L. Showers shall be equipped with a drain or drains which will prevent the shower water
469 from running across floors that are used for other purposes.

470 M. All fixtures shall be of durable material which will be capable of withstanding the heavy
471 usage which public facilities receive.

472 N. All doors to the exterior from service buildings shall be self-closing.

473 **12VAC5-450-115. Cabins and other rental units.**

474 A. All cabins, yurts, and other facilities, including self-contained camping units and other
475 mobile units offered by the campground for rental by campers, and the equipment, fixtures, and
476 furnishings contained therein, shall be kept clean, in good repair, free of vermin, and maintained
477 so as to protect the health, safety, and well-being of persons using those facilities.

478 B. When provided, dishes, glassware, silverware, and other cooking implements must be
479 kept in a clean and sanitary condition. If such items are not washed between occupants, the
480 permit holder must post a sign alerting cabin occupants that kitchen items are not washed under
481 management supervision.

482 C. When provided, box springs, mattresses, and other furnishings shall be clean and in
483 good repair. Conventional mattress covers or pads shall be used for the protection of
484 mattresses and shall be kept clean and in good repair. When provided, all sheets, pillowcases,
485 towels, washcloths, and bathmats shall be kept clean and in good repair, freshly laundered
486 between occupants, and changed at least once every seven days if used by the same occupant.

487 When a blanket is placed on the bed, the upper sheet shall be of sufficient length to fold and
488 overlap the top section of the blanket. All blankets, quilts, bedspreads, and comforters shall be
489 maintained in a sanitary and good condition, and all clean bedding and linen shall be stored in a
490 clean and dry place.

491 D. When provided, smoke detectors and fire extinguishers shall be functional and serviced
492 as appropriate.

493 E. Bed arrangements of lodging units shall provide suitable clear space between each bed,
494 cot, or bunk to allow for ingress to and egress from the lodging unit. There shall be sufficient
495 space between the floor and the underside of the beds to facilitate easy cleaning. In lieu of such
496 space, the bed shall have a continuous base or shall be on rollers.

497 F. Measures shall be taken to prevent the infestation of cabins and other rental units by
498 rodents, bedbugs, and vector insects.

499 **12VAC5-450-130. Insect, rodent and weed control.**

500 A. Camping places shall be kept free from cans, jars, buckets, old tires and other articles
501 which may hold water and provide temporary breeding places for mosquitoes. Mosquito control
502 measures and supplemental larvicidal measures shall be undertaken by the owner when the
503 need is indicated.

504 B. Fly and rodent breeding shall be controlled by eliminating ~~the insanitary practices which~~
505 ~~provide~~ breeding places. The area surrounding the garbage cans shall not be permitted to
506 become littered with garbage nor saturated with waste liquid from garbage.

507 C. The growth of weeds, grass, poison ivy or other noxious plants shall be controlled as a
508 safety measure and as a means toward the elimination of ticks and chiggers. Pesticidal
509 measures shall be applied, if necessary, provided the pesticide and its use is in accordance with
510 the rules promulgated by the ~~Pesticide Control Board~~ Virginia Department of Agriculture and
511 Consumer Services.

512 D. The campsite and the premises shall be maintained in a clean and orderly manner.

513 **12VAC5-450-140. Swimming pools and outdoor bathing facilities.**

514 The construction, modification, maintenance, operation, and use of any swimming pool at a
515 campground, if provided, shall be subject to the ~~State Board of Health regulations adopted~~
516 ~~under §§ 35.1-17 of the Code of Virginia~~ Regulations Governing Tourist Establishment
517 Swimming Pools and Other Public Pools (12VAC5-460-10 et seq.) and Swimming Pool
518 Regulations Governing the Posting of Water Quality Test Results (12VAC5-462-10 et seq.).

519 **12VAC5-450-150. Safety.**

520 A. The electrical installation and electrical hook-up provided travel trailers, and other similar
521 units shall be in accordance with the provisions of local electrical ordinances, or if no such
522 ordinance exists, in accordance with the provisions of the National Electrical Code, applicable at
523 the time of installation.

524 B. ~~Adequate precautions shall be exercised by the~~ The operator permit holder shall exercise
525 precautions to prevent the outbreak of fires. If open fires are permitted, there shall be a definite
526 area provided within the bounds of each campsite for the building of fires by the camper, with a
527 cleared area surrounding the ~~firesite~~ fire site to aid in fire control.

528 C. ~~Adequate precautions shall be taken by the~~ The operator permit holder shall take
529 precautions in the storage and handling of gasoline, gas cylinders or other explosive materials,
530 in accordance with local, state and national safety standards.

531 D. ~~The operator permit holder~~ shall make ~~adequate~~ provisions for the use and control
532 of ~~mini-bikes~~ all-terrain vehicles, trail bikes, and other similar vehicles within the confines of the
533 camping area to prevent accidents to small children and campers.

534 E. Broken bottles, glass and other sharp objects shall not be allowed to create a hazard to
535 children or others.

536 F. A register shall be kept for recording the names of all campers, the date of campsite
537 occupancy by each camper, and the number and location of occupied campsites.

538 G. Campground permit holders shall develop and maintain an emergency response plan.
539 This plan shall include identification of a point of contact during emergency incidents, and a
540 written plan for communicating emergency response information to campers. The plan shall
541 also include provisions for camper safety, identification, and evacuation in the event of natural
542 disasters, fires, or other emergencies. Contact telephone numbers for local police, fire
543 response, and emergency medical services shall be posted in a central location in all
544 campgrounds.

545 **12VAC5-450-170. Control of animals and pets.**

546 A. ~~Every pet permitted in a campground~~ Pets shall be maintained under control at all times
547 and shall not be permitted to create a public health problem. ~~Dogs shall be kept on leash at all~~
548 ~~times.~~ Dung Animal waste shall be removed ~~immediately and be~~ in a timely fashion and
549 disposed of in a waste receptacle or buried in a location ~~which~~ that will not interfere with the use
550 of the site for camping purposes campsite.

551 B. Any kennels, pens or other facilities provided for such pets, including horses, shall be
552 maintained in a sanitary condition at all times.

553 **12VAC5-450-180. Overflow areas.**

554 A. It shall be unlawful for any person operating a campground to exceed the design capacity
555 of the campground as stated on the health permit by the use of certain unequipped areas as an
556 overflow area for campers, ~~camping clubs or rallies~~ unless and until the overflow area and its
557 proposed use have been approved by the Health Commissioner in writing as to the specific
558 location of the overflow area, number and location of sanitary facilities, size and number of
559 campsites, and such other factors as may be deemed necessary to prevent overcrowding and
560 the accompanying insanitary conditions.

561 B. The length of stay of any camping unit permitted to use an area specifically designated
562 and approved as an overflow area shall be limited to a 12 hour period. Overflow areas are to be
563 used for incidental traffic only and are not for planned temporary camping.

564 **12VAC5-450-183. Primitive campgrounds.**

565 A. Campgrounds, or sections of campgrounds, may be permitted as primitive in the absence
566 of water-flushed toilets, showers and lavatories, and electrical connections. Campsites shall be
567 designated primitive at the time of permitting.

568 B. Primitive campgrounds, or sections of campgrounds with only primitive campsites, shall
569 be exempt from the following requirements of this chapter:

570 1. Campsite identification requirements of 12VAC5-450-70 D. Although individual
571 primitive campsites do not need to be marked, the overall campground size shall be
572 large enough to accommodate campsites arranged according the size and density
573 requirements of 12VAC5-450-70 B and 12VAC5-450-70 C.

574 2. Potable water requirements of 12VAC5-450-80 A, provided that the primitive
575 campground or section thereof has 10 campsites or less, and the following signage is
576 clearly posted at the entrance to the primitive campground or section thereof: "No
577 potable water provided at this campground". When provided, water must meet all
578 requirements of 12VAC5-450-80.

579 3. Where water is not provided, slop sink requirements of 12VAC5-450-90 F.

580 3. Lavatory and shower requirements of 12VAC5-450-100 A. If the primitive campground
581 provides showers or lavatories then the schedule in 12VAC5-450-100 A shall apply.

582 4. Garbage and refuse disposal requirements of 12VAC5-450-120, provided the primitive
583 campground or section thereof has 10 campsites or less, and the campground shall
584 display a sign stating, in effect: "Pack It In, Pack It Out, no garbage collection provided,
585 please remove your own garbage from this campground".

586 5. Weed, grass, and noxious plant control measures as specified in 12VAC5-450-130 C.
587 If pesticide measures are taken, then all pesticide use must be done in accordance with
588 rules promulgated by the Virginia Department of Agriculture and Consumer Services.

589 **12VAC5-450-187. Temporary campgrounds.**

590 Temporary campgrounds, as permitted under 12VAC5-450-40 F, shall be exempt from the
591 following requirements of this chapter:

592 1. Density, size, and designation requirements of 12VAC5-450-70 A through 12VAC5-
593 450-70 D. However, temporary campgrounds shall establish a maximum number of
594 campsites and campers. Campground permit holders shall ensure that the size, location,
595 and orientation of campsites will not prohibit the safe and timely evacuation of campsites
596 in the event of an emergency, and that vehicular traffic routes and parking are located
597 where they do not pose a safety risk to campers.

598 2. Permanent water supply requirements of 12-VAC5-450-80.

599 a. If potable water is provided in the form of a waterworks or private well, then it must
600 comply with 12VAC5-450-80 A and 12VAC5-450-80 B and 12VAC5-450-80 D
601 through 12VAC5-450-80 I. If no piped water source is provided, then bottled water
602 that complies with 21 CFR Part 129 shall be available, and the unavailability of piped
603 water must be advertised to campers prior to the time of the temporary camping
604 event.

605 b. Water may be hauled in from a source that meets the requirements of 12-VAC5-
606 450-80 A. Such water shall be transported in tanks of food-grade construction and
607 the water shall maintain a 1 ppm chlorine residual. Any tanks, hoses, or
608 appurtenances that are used to distribute water shall be of food-grade construction,
609 be disinfected between uses, and be protected from contamination.

610 3. The dump station and sloop sink requirements of 12VAC5-450-90 D through 12VAC5-
611 450-90 F.

612 a. Greywater disposal barrels or approved equivalents shall be provided and
613 serviced during the event unless all of the following conditions apply: piped water is
614 not available, portable showers and handwashing sinks are provided, and cooking
615 and campfires are prohibited. Only water from cooking, washing, or bathing shall be
616 disposed of in greywater barrels.

617 b. If self-contained camping units are present at the campground there shall be a
618 sewage handler available to pump holding tanks as appropriate during the event.

619 Such sewage handlers must possess a valid sewage handling permit as required by

620 12VAC5-610-10 et seq., and any licensure required by the Board for Waterworks
621 and Wastewater Works Operators and Onsite Sewage Professionals, Department of
622 Professional and Occupational Regulation, in accordance with that board's
623 regulations (18VAC160-20-10 et seq.) and Chapters 1, 2, 3, and 23 of Title 54.1 of
624 the Code of Virginia.

625 4. Permanent facility requirements in 12VAC-5-450-100 A, 12VAC5-450-100 B, and
626 12VAC5-450-100 J. However, portable toilet facilities shall be provided at the ratio of at
627 least one toilet for every 75 campers, and at least one toilet shall comply with the
628 Americans with Disabilities Act. No campsite shall be farther than 500 feet from any
629 portable toilet. Portable sinks and showers are not required for events of four days or
630 less, although hand sanitizer must be provided in all portable toilets where portable sinks
631 are not provided. All portable units shall be serviced at least daily during the event
632 unless the applicant can demonstrate that they are provided in numbers significant
633 enough to warrant a reduced-maintenance service schedule. If the temporary
634 campground has permanent bathroom facilities, these may count towards the required
635 number of portable privies. Campers who will be camping in self-contained camping
636 units shall not be counted toward the total number of campers in calculating the required
637 number of portable privies.

638 **12VAC5-450-190. Waiver Variances.**

639 A. One or more of the ~~provisions in the above regulation~~ regulations may be waived in whole
640 or in part when, in the opinion of the Health Commissioner, the hardship imposed by the
641 regulations, which may be economic, outweighs the benefits that may be received by the public
642 and that granting such a variance does not subject the public to unreasonable health risks or
643 environmental pollution. ~~there are factors or circumstances which render compliance with such~~
644 ~~provision(s) unnecessary; provided, that such provision(s) shall be specifically exempt in writing~~
645 ~~by the Health Commissioner.~~ Variances shall be issued in writing by the Commissioner.

646 B. ~~It shall be the duty of the campground operator to file a written request for such waiver in~~
647 ~~which the reasons for noncompliance of a certain provision(s) are stated fully. If data, test or~~
648 ~~other adequate information is necessary to the rendering of a decision by the Health~~
649 ~~Commissioner, it shall be the responsibility of the applicant to provide such evidence.~~ Any
650 permit holder who seeks a variance shall apply in writing to the local health department. The
651 application shall include:

- 652 1. A citation to the regulation from which a variance is requested;
653 2. The nature and duration of the variance requested;

- 654 3. Evidence that establishes that the public health, welfare and environment would not
655 be adversely affected if the variance were granted;
656 5. Suggested conditions that might be imposed on the granting of a variance that would
657 limit the detrimental impact on the public health and welfare;
658 6. Other information believed pertinent by the applicant; and
659 7. Such other information as the district or local health department or Health
660 Commissioner may require.

661 C. The Health Commissioner shall issue a case decision regarding the variance request
662 within 90 days of receipt. The campground operator or other named party may appeal any
663 adverse decision regarding a variance request pursuant to Code of Virginia § 2.2-4000 et seq..

664 **12VAC5-450-200. Penalties.**

665 Any person who violates any provision of this chapter shall, ~~upon conviction, be punished by~~
666 ~~a fine of not less than \$10 nor more than \$100; and each day's failure of compliance with any~~
667 ~~provision shall constitute a separate violation.~~ may be subject to penalties provided by the Code
668 of Virginia § 35.1-7.

669 **12VAC5-450-210. Constitutionality. (Repealed.)**

670 ~~If any provision of any section of this chapter is declared unconstitutional, or the application~~
671 ~~thereof to any person or circumstance is held invalid, the validity and constitutionality of the~~
672 ~~remainder of such regulations shall not be affected thereby.~~

673 **12VAC5-450-230. Exemptions. (Repealed.)**

674 ~~Whenever it is found that existing facilities provided at a campground prior to the effective~~
675 ~~date of this chapter such as the size of campsites and design of structures are in~~
676 ~~noncompliance, and that the required changes would work an undue hardship on the operator~~
677 ~~and not materially affect the public health or safety, such major items shall be exempted from~~
678 ~~this chapter. Other nonconforming items at existing campgrounds such as dump station~~
679 ~~requirements and number of sanitary facilities may continue in use for a reasonable period of~~
680 ~~time not to exceed two years from the effective date, provided that a diligent effort is made by~~
681 ~~the owner to effect compliance. All new campgrounds, sections added to existing campgrounds~~
682 ~~and additions and extensions within existing campgrounds shall be subject to the provisions of~~
683 ~~this chapter.~~