

# Virginia Legislative Record

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## Commission on Coal and Energy: Uranium Mining Subcommittee

March 24, 2009

The Commission on Coal and Energy's Uranium Mining Subcommittee met in Richmond on March 24, 2009, with Delegate Ware, chairman of the Uranium Mining Subcommittee, presiding.

### Presentation

Dr. Karmis, Dir., Virginia Center for Coal and Energy Research

Dr. Karmis, who is also the subcommittee's liaison with the National Academy of Sciences, gave a presentation on the proposed scope of work for the study on uranium mining. The study will be divided into two parts:

- The scientific and technical portion to include environmental, human health, safety, and regulatory issues that might apply across the Commonwealth; and
- The socioeconomic portion to include a site and region-specific study of social, economic, and environmental impacts and sustainability factors such as quality of life, infrastructure, local economic opportunities, and real estate values.

While Dr. Karmis prepared a draft scope for each study, only the scientific and technical portion was discussed at the meeting. Dr. Karmis recommended that the study be submitted to the National Research Council (NRC). A typical study may take about 18

months and its cost will reflect the scope, depth, and expected timing of the final report.

The scope of work consisted of a three-page outline with nine topics, each of which included several issues that might be addressed by the study. The document adhered to a style similar to other scopes of work performed by the National Academy of Sciences. The scope previewed to the subcommittee was developed from review of relevant publications, relevant knowledge and experience, public comment before the subcommittee, and written comment sent to the subcommittee.

After discussing the framework of recommendations from the Virginia Center for Coal and Energy Research, Dr. Karmis introduced the scope document in more detail. The outline included the following nine major issues:

- Uranium Supply/Demand Trends and Projections
- Worldwide Uranium Deposits and Operations
- Uranium Deposits in Virginia
- Uranium Mining, Milling, and Processing Technologies
- Occupational and Public Health and Safety
- Security Standards and Procedures
- Environmental Considerations

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*For more information, visit study and commission websites. DLS staff members maintain comprehensive study and commission websites that contain complete summaries of meetings and links to additional information, handouts, and resources.*

- Closure and Postmining Land Use and Monitoring
- Regulatory Considerations and Public Outreach in Virginia

*The Uranium Mining Study will consist of two components: a scientific and technical portion, and a socioeconomic portion.*

Subcommittee members had comments on different issues pertaining to the study and scope, including whether market factors should be included in the study, and that the price of uranium must be able to support any recommendations of the subcommittee. Delegate Ware added that the enabling motion adopted by the Coal and Energy Commission requested that the study be wide-ranging.

Various subcommittee members also commented on their desire to have the study focus primarily on public health, safety, and the environment, and that the supply and demand issues not be placed at the outset of the study so that the hierarchy would be clear: price issues are important, but they need not lead. Dr. Karmis noted the difference between review issues (items 1 through 4) and assessment issues (items 5 through 9) and explained that he saw the first four issues as background issues. A member asked that future drafts of the study scope clearly indicate that items 5 through 9 are the key substance of the study, and not those issues that might be perceived as market research for the private sector.

One of the subcommittee members expressed his general agreement with the subcommittee, but reasserted that the study as designed is a two-part study with a scientific portion and a socioeconomic portion. He said if the study of the market value of uranium must be addressed, it should be within the scope of the socioeconomic portion. Dr. Karmis responded and stated that it is important to incorporate worldwide supply and demand trends, which would be distinct from the viability of any specific deposit and not appropriate within the site-specific portion of the study. The member followed up that the economic analysis may not be appropriate in the first portion and that the predicted price of uranium, if taken into consideration prematurely, might conflate the recommendations that followed.

The subcommittee was reminded that the study would be performed by respectable scientists who should not be driven by economic concerns and that the objectivity of scientists should be something that the subcommittee could cautiously rely upon.

It was recommended that the subcommittee adopt the draft scope of study, entitled "Uranium Mining in Virginia," as a tentative working document. A member inquired about the timeline of the process and the role of the subcommittee. Dr. Karmis expressed his hope that with the encouragement of the subcommittee, he would be permitted to begin discussions with NRC prior to the formulation of a final scope of study. He further expected to come before the subcommittee before such scope of study is finalized. It was emphasized that the meeting was just the beginning of a long process and, if this outline were accepted, the subcommittee would reconvene to consider work plans, funding, and other issues.

The motion to adopt the draft scope of study as a tentative working document passed unanimously.

## **Public Comment**

The subcommittee then heard testimony from the public on a diverse array of issues relating to the uranium mining study.

## **May 21, 2009**

Delegate Ware, chair of the subcommittee, began the meeting by indicating that Delegate Kilgore, Chairman of the Commission on Coal and Energy, would listen in via telephone.

## **Presentation**

Dr. Karmis, Director, Virginia Center for Coal and Energy Research

Dr. Karmis began with a brief introduction of the scope of study. The final draft of the scope of study was developed in conjunction with the National Research Council (NRC), which functions under the auspices of the

National Academy of Sciences. Dr. Karmis emphasized that the role of the NRC is not to make actual policy recommendations, but to collect and analyze information with the aim of improving the quality of the policymaking process. Dr. Karmis concluded by noting that the study will provide advice, but not recommendations; reserves should be distinguished from resources, of which reserves are a fully explored and known component; and the NRC clarified with Dr. Karmis that the use of the term "reclamation" is meant to include postmining land use and monitoring.

A subcommittee member asked whether issue 11, which "[b]riefly characterize a public education and outreach program . . . for a uranium mining operation," assumed that the previous issues on public health, safety, and the environment would be answered reassuringly. He further noted that no money should be spent designing a public education and outreach program unless uranium mining has been found to be safe. The member also asked whether the study would examine "real-life situations." Dr. Karmis responded that existing issue 2, which states "[i]dentify and briefly describe the main types of uranium deposits worldwide including, for example, geologic characteristics, mining operations, and best practices[.]" will review real-life situations. The member suggested to the subcommittee that the scope be amended to clarify this and emphasize the importance of studying tailings practices.

Dr. Karmis was asked that the report include information on buried tailings and radioactive leachate, which would take thousands of years to decay, and more information on the financial assurances provided by any mining entity and how such assurances might be given for such a period of time in the future. Questions were also raised about whether foreign ownership of a mining entity would affect the financial assurance, whether the government would take title to the land after mining has been completed, and for how long in the future would the mining entity remain responsible.

Dr. Karmis responded to a question requesting clarification on how the study would review best practices by noting that the study would review best practices and then again as a preliminary step before determining if any such practices would be applicable in the situation. A member requested that the study also provide guidelines that could be used to determine applicability of best practices in the Commonwealth and asked that the subcommittee move the issue of public health and safety into a predominant position.

*The final draft of the scope of study of the Uranium Mining Study was developed in conjunction with the National Research Council.*

## Public Comment

Members of the public spoke and voiced their concerns on a diverse array of issues relating to the uranium mining study.

## Subcommittee Discussion

The subcommittee members continued to discuss the scope of study. Several amendments to the scope of study were made. For specific information regarding the discussion and amendments, please see the subcommittee website.

## Next Meeting

The next meeting date will be posted on the Commission's website and the General Assembly website as soon as information is available.

### **DELEGATE R. LEE WARE, JR., CHAIR URANIUM MINING SUBCOMMITTEE**

Ellen Porter, DLS Staff

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General Assembly Building, 2nd Floor  
Richmond, VA 23219

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<http://dls.state.va.us/cec.htm>

## *Did You Know?*

"Did You Know?" will appear in each issue of the Virginia Legislative Record. The article will feature important topics or interesting facts relevant to the Virginia legislature. For general questions or issue suggestions, please contact DLS at (804) 786-3591 or [emiller@dls.virginia.gov](mailto:emiller@dls.virginia.gov).

### **MANY BILLS, LIMITED TIME**

The Virginia General Assembly, as the lawmaking body for the twelfth largest state in population, faces a complex and lengthy legislative agenda each year. Yet, Virginia's legislative deliberations are compressed into a limited time frame, especially when compared with most states of comparable size. [Nine of the 15 most populous states have virtually unlimited sessions. Only Florida (60 calendar days) and Georgia (40 legislative days) are comparable to Virginia. Texas, with biennial sessions of 140 calendar days, falls somewhere in between.] The General Assembly accordingly has looked recently for ways to better manage the time available in order to more effectively consider the volume of legislation that is introduced.

In 2001 the General Assembly addressed the time management issue by encouraging pre-filing, the introduction of legislation before the beginning of the session. An unlimited number of bills could be prefiled but fairly strict limits were imposed on introduction once the session commenced. Graph 1 shows the dramatic effect of this step. Most legislation is now available by the first day of the session. Committees can start work immediately, gaining perhaps a week to 10 days of productive time, and can better plan the legislative agenda.

Prefiling did little to reduce the actual volume of legislation, however. The average number of bills (resolutions are not included in the data for this article) introduced in the 2004 through 2008 sessions reflected only a three percent reduction from the total in 2000, the last session before pre-filing began.

For the 2009 session the House of Delegates took a step towards addressing this issue by imposing comprehensive bill introduction limits. House members were limited to a combined prefiled and session total of 15 bills; the House limit of five in-session bills remained and was to be counted against the overall total.

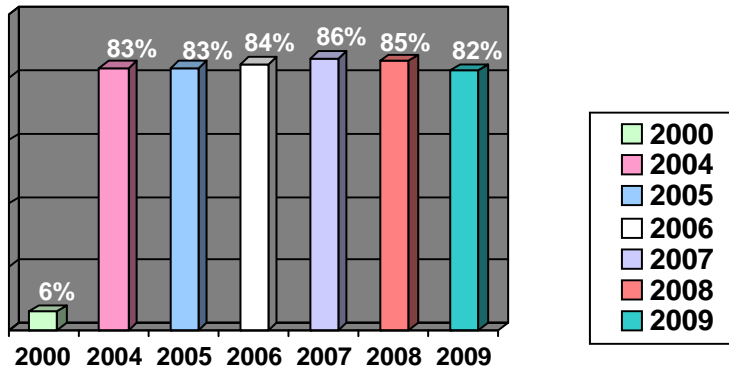
Graph 2 shows that the House limit had a measurable effect on the number of House bills introduced. The numbers for 2009 reflect a reduction of around 30 percent from the previous year and from the previous five-year average. (Parenthetically, it is impossible to determine whether any of the introduction load shifted to the Senate. There was also a drop in the number of Senate bills compared to a recent high of 800 in 2008, but an increase in Senate bills when 2009 is compared overall with the previous five-year average.)

Finally, did the reduction in the number of introduced bills have any effect on the number of measures passed? Graph 3 shows that, while the number of its own bills the House passed declined slightly from 2008 and significantly from the previous four sessions, the success rate for House legislation that was introduced was markedly greater than in the last several sessions. Was this because House members were more select in putting together their legislative packages because of the limit, holding back controversial bills or bills with little predicted success? Was it because fewer bills to consider meant more time to "perfect" problem bills and therefore resulted in a better chance of success? Unfortunately, the data cannot answer that question.

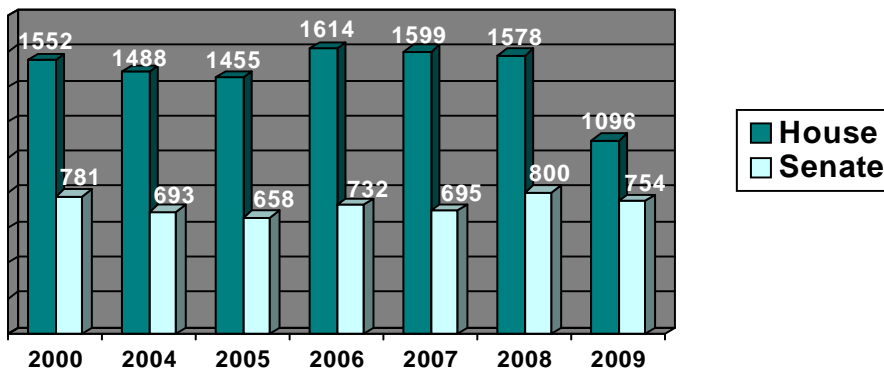
**Robert J. Austin, Manager**  
**Special Project Section**

*Note: All data on legislation are from the General Assembly's Legislative Information System. Information about legislative session length is from NCSL.*

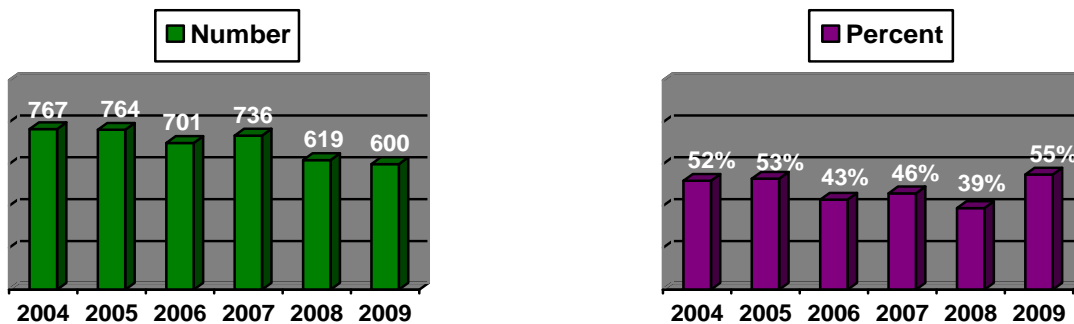
**GRAPH 1  
PERCENT OF BILLS PREFILED**



**GRAPH 2  
VOLUME OF BILLS INTRODUCED**



**GRAPH 3  
HOUSE BILLS PASSED BY HOUSE**





# Virginia Code Commission 5/7/09

## Presentations

### ADMINISTRATIVE LAW ADVISORY COMMITTEE

Chris Nolen, chair of the Administrative Law Advisory Committee (ALAC), presented ALAC's proposed work plan for the next year, which includes continuing the study of incorporating documents by reference into regulations, focusing on the emergency regulations process, and updating the hearing officer handbook. The Joint Legislative Audit and Review Commission (JLARC) is studying Administrative Process Act exemptions this year and the chairman stated he would like to invite JLARC to report its findings and recommendations to the Code Commission. Mr. Nolen advised the Commission members that J. P. Jones resigned from ALAC last fall, and suggested that the Commission consider appointing Thomas A. Lisk to fill the vacancy. The motion to appoint Thomas A. Lisk was approved.

### 2009 LEGISLATIVE SESSION UPDATE

Staff reported that the six Code Commission-sponsored bills passed both houses of the General Assembly and were signed by the Governor: Chapters 33, 34, 35, 107, 108, and 471.

### 2009 WORK PLAN

The Commission established its 2009 work plan as follows:

- Complete Title 6.1 (Banking and Finance) recodification;
- Begin Title 64.1 (Wills and Decedents' Estates) recodification;
- Review the compilation of Code Commission policies;
- Continue obsolete laws analysis project required by § 30-151 of the Code of Virginia;
- Revise the Virginia Code Commission regulations implementing the Virginia Register Act;
- Review signature/certification requirements for regulation filings and determination if amendments are needed to the Virginia Register Act or Administrative Process Act; and
- Monitor progress of Boyd-Graves Conference study committee tasked with reviewing the Code of Virginia for obsolete fee provisions.

### TITLE 6.1, BANKING AND FINANCE

Staff reported on the Title 6.1, Banking and Finance, title revision. The Code Commission discussed Chapters 5, 7, and 13 of Title 6.1. For a complete description of the discussion on the revision of Title 6.1, visit the Code Commission website.

### CODE OF 1819

Chairman Landes extended his appreciation to those involved with the reproduction of a facsimile copy of the

two-volume 1819 Code of Virginia, the first legislatively adopted code, as part of the latest Code of Virginia publishing contract between LexisNexis and the Virginia Code Commission.

The Chairman introduced Brian Kennedy as the new LexisNexis representative working with the Code Commission.

### REVISION OF TITLE 64.1

Staff reported that Title 64.1 was last revised in 1968 and that several individuals have expressed interest in assisting with the revision. Related provisions are scattered throughout the Code, and an attempt will be made to compile these provisions into proposed Title 64.2. In addition, staff plans to review Title 26, Fiduciaries, with regard to incorporating that title into proposed Title 64.2.

### VIRGINIA ADMINISTRATIVE CODE REPLACEMENT VOLUMES

Staff presented the Code Commission with proposed replacement volumes for the Virginia Administrative Code (VAC). Supplements to the VAC are provided by the publisher semiannually and replacement volumes generally are released as part of the fall VAC supplement package. Due to the size of the total pages of combined volumes and supplements, staff recommends replacing Volumes 3, 15, and 19. Due to its size, staff recommends splitting Volume 15 into two volumes numbered 15 and 15A. The motion to accept the recommendations was approved.

## Next Meeting

The next meeting of the Code Commission will be held at 10:00 a.m. on Thursday, July 30, 2009, in the 6th Floor Speaker's Conference Room in the General Assembly Building.

### DELEGATE R. STEVEN LANDES, CHAIR

Jane Chaffin, DLS Staff

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Richmond, Virginia 23219  
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<http://codecommission.dls.virginia.gov/codehome.htm>

## REGULATORY ALERT

### A CONVENIENT GUIDE TO REGULATORY ACTIVITY IN THE COMMONWEALTH

The Regulatory Alert is intended to assist General Assembly members as they keep up with the myriad regulations being proposed by agencies in the Commonwealth. The goal of this project is to provide a timely, simple, and accurate summary of the rules that are being proposed by agencies, boards, and commissions. Highlighting regulations when they are published as "proposed regulations" gives General Assembly members notice that the critical public participation phase of the rulemaking process is well underway. It is during the public participation process that the questions of an Assembly member or constituent may be most effectively communicated to the agency and examined by the individuals crafting the regulatory proposal.

The Regulatory Alert is not intended to be a substitute for the comprehensive information on agency rulemaking activity that is currently published biweekly in the *Virginia Register of Regulations* or the notification services offered by the Regulatory Town Hall website maintained by the Department of Planning and Budget. It is hoped that the Legislative Record will assist all members as they monitor the development, modification, and repeal of administrative rules in the Commonwealth. Access the *Virginia Register of Regulations* online at <http://register.dls.virginia.gov> or contact [epalen@dls.virginia.gov](mailto:epalen@dls.virginia.gov) or the Code Commission staff at (804) 786-3591 for further information.

### TITLE 4. CONSERVATION AND NATURAL RESOURCES

#### VIRGINIA SOIL AND WATER CONSERVATION BOARD

**4VAC50-60. Virginia Stormwater Management Program (VSMP) Permit Regulations (amending 4VAC50-60-10, 4VAC50-60-20, 4VAC50-60-30, 4VAC50-60-40; adding 4VAC50-60-53, 4VAC50-60-56, 4VAC50-60-63, 4VAC50-60-65, 4VAC50-60-66, 4VAC50-60-72, 4VAC50-60-74, 4VAC50-60-76, 4VAC50-60-85, 4VAC50-60-93, 4VAC50-60-96, 4VAC50-60-102, 4VAC50-60-104, 4VAC50-60-106, 4VAC50-60-108, 4VAC50-60-112, 4VAC50-60-114, 4VAC50-60-116, 4VAC50-60-118, 4VAC50-60-122, 4VAC50-60-124, 4VAC50-60-126, 4VAC50-60-128, 4VAC50-60-132, 4VAC50-60-134, 4VAC50-60-136, 4VAC50-60-138, 4VAC50-60-142, 4VAC50-60-154, 4VAC50-60-156, 4VAC50-60-157, 4VAC50-60-158, 4VAC50-60-159; repealing 4VAC50-60-50, 4VAC50-60-60, 4VAC50-60-70, 4VAC50-60-80, 4VAC50-60-90, 4VAC50-60-100, 4VAC50-60-110, 4VAC50-60-120, 4VAC50-60-130, 4VAC50-60-140, 4VAC50-60-150).**

Public Hearing Information:

June 30, 2009 - 7 p.m. - Hungry Mother State Park, Hemlock Haven Conference Center, 380 Hemlock Haven Lane, Marion, VA

July 1, 2009 - 7 p.m. - Augusta County Government Center, Board of Supervisors Meeting Room, 18 Government Center Lane, Verona, VA

July 7, 2009 - 7 p.m. - City of Manassas, City Council Chambers, 9027 Center Street, Manassas, VA

July 9, 2009 - 7 p.m. - City of Hampton, City Council Chambers, 22 Lincoln Street, 8th Floor, Hampton, VA

July 14, 2009 - 7 p.m. - Virginia General Assembly Building, 910 Capitol Street, Senate Room B, Richmond, VA

Written public comment may be submitted until 5 p.m. on August 21, 2009.

Summary:

*The amendments provide technical criteria applicable to stormwater discharges from construction activities; establish minimum criteria for locality-administered stormwater management programs (qualifying local programs) and Department of Conservation and Recreation administered local stormwater management programs, as well as authorization procedures and review procedures for qualifying local programs; and revise the definitions section applicable to all of the Virginia Stormwater Management Program (VSMP) regulations.*

*With regard to technical criteria applicable to stormwater discharges from construction activities, revised water quality and water quantity requirements are proposed to be included in Part II of the regulations. Water quality requirements include a 0.28 lbs/acre/year phosphorus standard for new development, a requirement that total phosphorus loads be reduced to an amount at least 20% below the predevelopment phosphorus load on prior developed lands, and a requirement that control measures be installed on a site to meet any applicable wasteload allocation are added. Water quantity requirements include both channel protection and flood protection criteria.*

*This action would also establish the minimum criteria and ordinance requirements (where applicable) for a Virginia Soil and Water Conservation Board authorized qualifying local program (Part III A) or for a board-authorized department-administered local stormwater management program (Part III B) which include, but are not limited to, administration, plan review, issuance of coverage under the General Virginia Stormwater Management Program Permit for Discharges of Stormwater from Construction Activities, inspection, enforcement, reporting, and recordkeeping. Part III D establishes the procedures the board will utilize in authorizing a locality to administer a qualifying local program. Part III C establishes the criteria the department will utilize in reviewing a locality's administration of a qualifying local program.*

Finally, this proposed action would make changes to definitions in Part I, which is applicable to the full body of the VSMP regulations. Unnecessary definitions are proposed to be deleted, needed definitions are proposed to be added, and many existing definitions are proposed to be updated.

For additional information please contact David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, Richmond, VA, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

**REGISTRAR'S NOTICE:** Due to its length, the following regulation filed by the State Air Pollution Control Board (9VAC5-45, Consumer and Commercial Products) is not being published. However, in accordance with § 2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the State Air Pollution Control Board (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://register.dls.virginia.gov/vol25/Welcome.htm>.

#### 9VAC5-20. General Provisions (amending 9VAC5-20-21).

#### 9VAC5-45. Consumer and Commercial Products (adding 9VAC5-45-10 through 9VAC5-45-850).

##### Public Hearing Information:

July 22, 2009 - 10 a.m. - Department of Environmental Quality, Northern Regional Office, Conference Room 1, 13901 Crown Court, Woodbridge, VA

Written public comment may be submitted until 5 p.m. on August 10, 2009.

##### Summary:

A new chapter (9VAC5-45) is established for the control of volatile organic compound (VOC) emissions from various consumer and commercial products in the Northern Virginia and Fredericksburg VOC Emissions Control Areas. The new chapter consists of two parts. The first part of the new chapter contains general requirements pertaining to all of the types of consumer and commercial products regulated. The second part is composed of articles that contain VOC content and emission standards for individual types of consumer products and contain the control technology, testing, monitoring, administrative, recordkeeping, and reporting requirements necessary to determine compliance with each of the applicable standards.

The new chapter includes two articles that control VOC emissions from portable fuel containers and spouts. These articles implement design, performance, and labeling standards for portable fuel container products before and

after January 1, 2009, and prohibit owners from manufacturing, distributing, and selling noncompliant products.

The new chapter includes two articles that control VOC emissions from certain types of consumer products. These articles implement VOC content standards for some individual product categories before and after January 1, 2009, and prohibit owners from manufacturing, distributing, advertising, or selling noncompliant products.

The new chapter includes an article for the control of VOC emissions from architectural and industrial maintenance coatings that implements VOC content standards for all such coating products and prohibits owners from manufacturing, distributing, selling, and using noncompliant products.

The new chapter includes an article that controls VOC emissions from adhesives, adhesive primers, sealants, and sealant primers that implements VOC content limits for those products and prohibits owners from manufacturing, distributing, selling, or applying noncompliant products.

Finally, the new chapter includes an article that controls VOC emissions from asphalt paving operations, which prescribes the use of emulsified asphalt coatings except for the purpose of coating residential driveways and prohibits the mixing, storage, and application of noncompliant products.

For more information, please contact Gary E. Graham, Department of Environmental Quality, Richmond, VA, telephone (804) 698-4103, FAX (804) 698-4510, or email gegraham@deq.virginia.gov.

## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### 12VAC30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12VAC30-80-30, 12VAC30-80-190).

No public hearings are scheduled. Written public comment may be submitted until 5 p.m. on August 7, 2009.

##### Summary:

Item 306 PP of Chapter 879 of the 2008 Acts of Assembly directed DMAS to recalibrate its Resource Based Relative Value System (RBRVS) physician reimbursement rates by implementing a site of service differential payment policy.

12VAC30-80-190 is being amended to implement a site of service differential for RBRVS physician rates. Payment for physician services in some cases will be recalibrated to implement different rates for services depending on the site of service based on the relative value units (RVUs) for a procedure code published by the Centers for Medicare and Medicaid Services (CMS). For procedures that can be performed in either a facility or nonfacility, CMS has been publishing separate RVUs for several years and Medicare rates are based on site of service. Different Medicaid rates by site of service will be phased in over a four-year period.

12VAC30-80-30 is being amended to remove the long-standing payment reduction applied to physician services when



performed in hospital settings, as compared to physicians' offices.

For additional information please contact Carla Russell, Health Care Reimbursement Manager, Department of Medical Assistance Services, Richmond, VA, telephone (804) 225-4586, FAX (804) 371-8892, or email carla.russell@dmas.virginia.gov.

#### **DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

##### **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-130).**

No public hearings are scheduled. Written public comment may be submitted until 5 p.m. on August 7, 2009.

##### Summary:

*The proposed amendment implements Item 306 OO of Chapter 879 of the 2008 Acts of Assembly by requiring providers to obtain prior authorization in order to be reimbursed for intensive in-home services to children and adolescents. This requirement has been in effect since July 2, 2008, under emergency regulations.*

For further information, please contact Catherine Hancock, Project Manager, Department of Medical Assistance Services, Richmond, VA, telephone (804) 225-4272, FAX (804) 786-1680, or email catherine.hancock@dmas.virginia.gov.

#### **STATE BOARD OF HEALTH**

##### **12VAC5-612. Regulations to Implement the Onsite Sewage Indemnification Fund (adding 12VAC5-612-10 through 12VAC5-612-100).**

No public hearings are scheduled. Written public comment may be submitted until 5 p.m. on August 7, 2009.

##### Summary:

*The regulations administer § 32.1-164.1:01 of the Code of Virginia, which creates the Onsite Sewage Indemnification Fund. The fund reimburses Virginia real property owners whose onsite sewage systems fail within three years of construction from the negligence of the Virginia Department of Health (VDH). In order to receive assistance, the commissioner must find that the Virginia real property owner (i) meets the statutory requirements specified in the Code of Virginia (i.e., valid permit, failure of onsite sewage system within three years from installation, negligent actions by VDH caused failure); (ii) submits a complete application within one year of the date of failure; (iii) follows the requirements to repair or replace the failed system; and (iv) executes a release of claims against the Commonwealth related to the failed system.*

*If the commissioner finds that the onsite sewage system failed within three years from faulty construction or other private party error, then the commissioner may assist the owner in seeking redress from the system's builder or other private party.*

For further information, please contact Allen Knapp, Environmental Health Coordinator, Department of Health, Richmond, VA, telephone (804) 864-7458, FAX (804) 864-7476, or email allen.knapp@vdh.virginia.gov.

#### **STATE BOARD OF HEALTH**

##### **12VAC5-650. State Board of Health Schedule of Civil Penalties (adding 12VAC5-650-10 through 12VAC5-650-100).**

No public hearings are scheduled. Written public comments may be submitted until 5 p.m. on August 7, 2009.

##### Summary:

*The proposed amendment implements Item 306 OO of Chapter 879 of the 2008 Acts of Assembly by requiring providers to obtain prior authorization in order to be reimbursed for intensive in-home services to children and adolescents. This requirement has been in effect since July 2, 2008, under emergency regulations.*

For further information, please contact Catherine Hancock, Project Manager, Department of Medical Assistance Services, Richmond, VA, telephone (804) 225-4272, FAX (804) 786-1680, or email catherine.hancock@dmas.virginia.gov.

#### **TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

##### **BOARD OF PHARMACY**

##### **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-20).**

##### **18VAC110-50. Regulations Governing Wholesale Distributors, Manufacturers, and Warehousemen (amending 18VAC110-50-20).**

##### Public Hearing Information:

June 10, 2009 - 9 a.m. - Perimeter Center, 9960 Mayland Drive, 2nd Floor, Richmond, VA

Written public comment may be submitted until 5 p.m. on August 7, 2009.

##### Summary:

*The proposed amendments establish annual renewal dates for various licenses, permits, and registrations under the Board of Pharmacy. The amendments are currently in effect under emergency regulations that will expire September 22, 2009.*

For more information, please contact Elizabeth Scott Russell, RPH, Executive Director, Board of Pharmacy, Richmond, VA, telephone (804) 367-4456, FAX (804) 527-4472, or email scotti.russell@dhp.virginia.gov.

##### **BOARD OF MEDICINE**

##### **18VAC85-80. Regulations Governing the Licensure of Occupational Therapists (amending 18VAC85-80-10, 18VAC85-80-26, 18VAC85-80-40, 18VAC85-80-45, 18VAC85-80-50, 18VAC85-80-65, 18VAC85-80-70, 18VAC85-80-72, 18VAC85-80-73, 18VAC85-80-80, 18VAC85-80-90, 18VAC85-80-100, 18VAC85-80-110; adding 18VAC85-80-111; repealing 18VAC85-80-61).**

##### Public Hearing Information:

July 28, 2009 - 10 a.m. - Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Richmond, VA

Written public comment may be submitted until 5 p.m. on August 7, 2009.

Summary:

*The proposed amendments establish requirements for the licensure of occupational therapy assistants as mandated by Chapters 64 and 89 of the 2008 Acts of Assembly. The regulations will replace existing emergency regulations that will expire October 31, 2009.*

*The regulations specify the national credential for licensure, the requirements for continuing competency and renewal, fees for licensure as an occupational therapy assistant (OTA), the provisions for supervision of OTAs, and the perimeters for practice. In order to be licensed, an applicant must pass the certification examination for an occupational therapy assistant from the National Board for Certification in Occupational Therapy (NBCOT). Practice by an OTA must be supervised by an occupational therapist (OT) and include services that do not require the clinical decision or specific knowledge, skills and judgment of a licensed OT nor the discretionary aspects of the initial assessment, evaluation or development of a treatment plan.*

For more information, please contact William L. Harp, M.D., Executive Director, Board of Medicine, Richmond, VA, telephone (804) 367-4621, FAX (804) 527-4429, or email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

### **VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS**

**18VAC15-40. Virginia Certified Home Inspectors Regulations (amending 18VAC15-40-10, 18VAC15-40-30, 18VAC15-40-50, 18VAC15-40-80, 18VAC15-40-90, 18VAC15-40-100, 18VAC15-40-120, 18VAC15-40-130, 18VAC15-40-140, 18VAC15-40-190; adding 18VAC15-40-45, 18VAC15-40-48, 18VAC15-40-52, 18VAC15-40-72, 18VAC15-40-85, 18VAC15-40-105; repealing 18VAC15-40-70, 18VAC15-40-110).**

Public Hearing Information:

July 10, 2009 - 10 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 200, Board Room 4, Richmond, VA

Written public comment may be submitted until 5 p.m. on August 7, 2009.

Summary:

*The amendments (i) update the definitions, the qualifications for certification, the certified home inspection contract provisions, the certified home inspection report provisions, the conflict of interest provisions, and the unworthiness and incompetence provisions; (ii) add continuing professional education requirements; and (iii) change several sections to conform to DPOR's model regulations with no substantive impact.*

For more information, please contact Justin Garofalo, Board Administrator, Virginia Board for Asbestos, Lead and Home Inspectors, Richmond, VA, telephone (804) 367-2567, FAX (804) 527-4297, or email [justin.garofalo@dpor.virginia.gov](mailto:justin.garofalo@dpor.virginia.gov).

### **COMMON INTEREST COMMUNITY BOARD**

**18VAC48-50. Common Interest Community Manager Regulations (adding 18VAC48-50-10 through 18VAC48-50-290).**

Public Hearing Information:

August 3, 2009 - 10 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, 2nd Floor, Board Room 1, Richmond, VA

Written public comment may be submitted until 5 p.m. on August 21, 2009.

Summary:

*This is a new regulation that establishes the licensure requirements for common interest community managers, as well as the standards of practice and conduct for common interest community managers and requirements for training programs. The regulation will ultimately replace emergency regulations that were implemented as a result of the enactment of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which were the result of HB 516 and SB 301. These Acts required regulations to be effective within 280 days of enactment, thus the implementation of emergency regulations on November 13, 2008.*

For additional information, please contact Trisha Henshaw, Executive Director, Common Interest Community Board, Richmond, VA, telephone (804) 367-8510, FAX (804) 527-4298, or email [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov).

### **TITLE 22. SOCIAL SERVICES**

#### **STATE BOARD OF SOCIAL SERVICES**

**22VAC40-630. Disability Advocacy Project (repealing 22VAC40-630-10 through 22VAC40-630-50).**

Written public comment may be submitted until 5 p.m. on August 7, 2009.

Summary:

*General Relief is a program that provides assistance to individuals who are not eligible for other forms of assistance and is an optional program at the local level. The regulation provides procedures for referring recipients to legal representation during an appeal of a Supplemental Security Income (SSI) disability determination process and providing information on how the appeal may affect their General Relief benefits. This regulation is repealed and its provisions will be included in a new comprehensive General Relief Program regulation (22VAC40-411).*

For more information, please contact Mark L. Golden, TANF Program Manager, Department of Social Services, Division of Benefit Programs, Richmond, VA, telephone (804) 726-7385, FAX (804) 726-7356, or email [mark.golden@dss.virginia.gov](mailto:mark.golden@dss.virginia.gov).

## 2009 Legislative and Agency Studies staffed by DLS Staff

### **NEW** Legislative Studies

Bill and Patron	Description	DLS Staff
SB 1453 (Petersen)	Commission on Civics Education	Nikki Cheuk, Jessica Eades

### **CONTINUING** Legislative Studies

Bill and Patron	Description	DLS Staff
HJ 711 (Jones)	Joint Subcommittee studying the transportation network of Hampton Roads	Alan Wambold Caroline Stalker
HJ 72 (Purkey)	Privatization of ports of Virginia	Caroline Stalker Kevin Stokes
HJ 91 (Hamilton)	Commonwealth and Virginia's private nonprofit colleges work to meet state higher education needs	Jessica Eades Nikki Cheuk
HJ 159 (Jones)	U.S. Route 460 Communications Committee	Alan Wambold Caroline Stalker
HJ 178 (Athey) SJ 70 (Vogel)	Land use tools of localities	Kevin Stokes, Jeff Sharp, Rebecca Young
SB 464 (Whipple)	Virginia Commission on Energy and Environment	Ellen Porter, Patrick Cushing Advisor: Marty Farber
SJ 223 (1993)	Block Grants	Jessica Eades
SJ 318 (Hanger)	Strategies and Models for Substance Abuse Prevention and Treatment	Sarah Stanton Robie Ingram
SJ 357 (Barker)	Rapid Transit Service Network	Alan Wambold Caroline Stalker
SJ 359 (Stolle)	Operations of circuit court clerks' offices	Mary Felch

### Meeting Calendar for July - August '09

<i>Study/Commission Name</i>	<i>Meeting Information</i>	<i>DLS Staff</i>
State Water Commission	10:00 a.m., Thursday, July 9, 2009 General Assembly Building, 9th Floor Appropriations Room	Marty Farber Ellen Porter
Special Subcommittee on the 50th Anniversary of Public School Closings in Virginia	10:00 a.m., Tuesday, July 14, 2009 General Assembly Building, House Room C	Brenda Edwards
Virginia Code Commission	10:00 a.m., Thursday, July 30, 2009 General Assembly Building, 6th Floor Speaker's Conference Room	Jane Chaffin
Small Business Commission	10:00 a.m., Monday, August 3, 2009 General Assembly Building, Senate Room A	David Cotter
Virginia Housing Commission	See website for ongoing meeting information <a href="http://dls.virginia.gov/VHC.HTM">http://dls.virginia.gov/VHC.HTM</a>	Elizabeth Palen

*Meetings may be added at anytime, so please check the General Assembly and DLS websites for updates.*

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