

Virginia Legislative Record

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Virginia Code Commission

January 21, 2010

The Virginia Code Commission met in Richmond to discuss proposed changes to the Code of Virginia published by LexisNexis.

Presentation

Anders Ganten, Sr. Director, Government Content Acquisition, LexisNexis

Mr. Ganten advised members that LexisNexis is building a new system for publishing all of its state codes. The goals for the new system include providing consistency between the various state codes and making sure the format and appearance are current and relevant.

Mr. Ganten stated that LexisNexis proposed to implement style changes to the Code of Virginia in the July 2010 supplements and replacement volumes. The proposed changes include increased spacing and in some cases, increased font sizes. The new format would be phased in as volumes are replaced. As inventory sells out, a determination will be made about whether to implement the new formatting changes in the reprinted volumes.

The primary concern expressed by the Code Commission was that the proposed formatting changes would likely result in an increase in the page

count of each volume. Mr. Ganten estimated that the size of the Code of Virginia will increase by approximately 8-10 percent.

Mr. Ganten explained that LexisNexis performed market research on the issue, which showed that law students do not generally use the Code of Virginia in book form. However, later in their careers the students discover the utility of the actual book. The proposed appearance and formatting changes cater to a generation that is used to reading material online. The changes are intended to make the book easier to browse and navigate.

A motion was approved to authorize LexisNexis to move forward with implementing the changes in 2010.

Next Meeting

The next meeting of the Code Commission will be Wednesday, August 18, 2010.

**SENATOR JOHN S. EDWARDS,
CHAIR**

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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.

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.

The History of Independent Cities in Virginia

There are several unusual features of Virginia local government but none is more noteworthy than Virginia's practice of independent cities, also known as city-county separation. In fact, Virginia's tradition of independent cities is unique among all 50 states.¹

The geographic area of the Commonwealth is divided into counties and cities. The territories of counties and cities do not overlap, while towns are a part of the counties in which they are located. Virginia currently has 39 cities, 95 counties, and approximately 190 towns.²

The origins of how Virginia came to be the only state where all cities are independent are somewhat murky and mysterious. According to one author, writing prior to the 1971 Constitution, "the formal authority for this practice tends to be more implicit than explicit." He further states that "city independence did not begin suddenly but evolved gradually and developed through the years until it gained general acceptance."³ However, he also acknowledges that most of the bases for recognition of independent cities in Virginia "consist of factors that merely recognize the principle rather than provide explicit authority for its operation."⁴

Although independent cities had been the norm in Virginia for many years, the 1971 Constitution for the first time formally recognized independent cities by including the word "independent" in the definition of city.⁵ Section 1 of Article VII of the Constitution of Virginia defines a city as "an independent incorporated community which became a city as provided by law before noon on the first day of July, nineteen hundred seventy-one, or which has within defined boundaries a population of 5,000 or more and which has become a city as provided by law."

Advantages and Disadvantages

There has been significant debate over the years as to whether Virginia's unique independent city structure is good or bad for the Commonwealth and its localities.

Arguments advanced in favor of independent cities include a belief that such a clear demarcation of political boundaries and authority results in greater clarity when determining which local government is responsible for providing which service. Other arguments in favor of independent cities include a reduction in overlapping governmental services, the ability of a city to better provide for the needs of its more urban residents in areas such as infrastructure and education, and the reduction of dual taxation.⁶

Arguments against independent cities include the contention that city-county separation results in less cooperation and greater conflict between counties and cities. This was especially the case during the time when cities were authorized to annex portions of an adjacent county, resulting in a complete transfer of such county land to the city, whereas in other states, such land may continue to also be part of the county.⁷

¹See generally Chester W. Bain, *A Body Incorporate: The Evolution of City-County Separation in Virginia*, (Charlottesville: University of Virginia Press, 1967).

²*The Report of the Secretary of the Commonwealth*, (June 2010), <http://www.commonwealth.virginia.gov/StateGovernment/BlueBook/report.cfm>

³Bain, *A Body Incorporate: The Evolution of City-County Separation in Virginia*, 37.

⁴Bain, *A Body Incorporate: The Evolution of City-County Separation in Virginia*, 53.

⁵A.E. Dick Howard, *Commentaries on the Constitution of Virginia* (Charlottesville: University of Virginia Press, 1974) 795.

⁶Bain, *A Body Incorporate: The Evolution of City-County Separation in Virginia*, 89-95.

⁷Advisory Commission on Intergovernmental Relations, *Interim Report: Condition and Future of Virginia's Cities*. Senate Document No. 38 (Richmond, 2001).

Other negative consequences of independent cities, it is argued, include the creation of local governments that are too small to properly provide all necessary governmental services to their residents, and the duplication of effort necessary to provide parallel services in both a county and a city.⁸

Various suggestions have been made in response to such criticism that would seek to address these concerns. For example, the Advisory Commission on Intergovernmental Relations has recommended that Virginia allow for the creation of “a new class of city that would permit, in consultation with an adjoining county, the transfer of selected functions to that county without loss of the city’s identity; and, the city

would be able to expand its territorial boundaries in a ‘town-like’ arrangement.”⁹ Although this recommendation has not been adopted, there are a variety of tools available to Virginia cities and counties that seek to cooperate in the provision of governmental services.

*Jeff Sharp, Senior Attorney
Finance and Government Section*

⁸Bain, *A Body Incorporate: The Evolution of City-County Separation in Virginia*, 101-109.

⁹Advisory Commission on Intergovernmental Relations, *Final Report: Condition and Future of Virginia’s Cities*. Senate Document No. 14. (Richmond, 2003)

Meeting Calendar for July - August ‘10

<i>Study/Commission Name</i>	<i>Meeting Information</i>	<i>DLS Staff</i>
Commission on Energy and Environment	1:00 p.m., Thursday, July 8, 2010 General Assembly Building, Senate Room A	Ellen Porter Anne Louise Mason
Small Business Commission	10:00 a.m., Monday, July 19, 2010 General Assembly Building, 3rd Flr. East Conference Rm.	David Cotter Anne Louise Mason
Disability Commission	10:00 a.m., Tuesday, July 20, 2010 General Assembly Building, House Room C	Sarah Stanton
Commission on Electric Utility Regulation	1:00 p.m., Wednesday, July 21, 2010 Roanoke Higher Education Center 108 N. Jefferson St., Room 212 Roanoke, Virginia	Ellen Porter
FOIA Advisory Council	9:00 a.m., Monday, July 26, 2010 General Assembly Building, House Room D	Maria Everett Alan Gernhardt
Code Commission	10:00 a.m., Wednesday, August 18, 2010 General Assembly Building	Jane Chaffin
Virginia Housing Commission	See website for ongoing meeting information http://dls.virginia.gov/VHC.HTM	Elizabeth Palen

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

Virginia Sesquicentennial of the American Civil War Commission 6/8/10

Speaker Howell called the Executive Committee meeting to order and announced that Delegate Lingamfelter had been appointed to the Executive Committee to fill a vacancy created by the retirement of Delegate Eisenberg.

Federal Enhancement Grant Project

Mike Estes, Dir., Local Assistance Division, VA Department of Transportation (VDOT)

Mr. Estes presented an overview of the Federal Enhancement Grant Project: Sesquicentennial and Scenic Byways Promotion, a partnership between VDOT, the Commission, the Virginia Tourism Corporation (VTC), Virginia Wineries, Civil War Trails, and the Civil War Preservation Trust (CWPT).

Mr. Estes explained that 10 percent of the federal funds VDOT receives must be used for nonmotorized projects. The Commonwealth Transportation Board (CTB) administers the federal transportation enhancement funds. The CTB receives roughly 150-200 applications per year, in turn awarding grants to approximately 100 projects. In the coming fiscal year, the CTB has set aside approximately \$3 million for a statewide initiative aimed at promotion of the scenic byways program and the sesquicentennial of the American Civil War.

The main components of the partnership initiative include:

- Acquisition of unprotected battlefield land in the Piedmont and south-central portions of Virginia in partnership with the CWPT.
- Development of smartphone GPS-enabled applications for visitors to download and use in touring Virginia's Civil War battlefields.
- Collaboration with Virginia Civil War Trails to update maps and install gateway markers in the state's Welcome Centers.
- Establishment of interactive multimedia centers in Welcome Centers throughout the state that coalesce information from the (i) Scenic Roads in Virginia map, (ii) Then/Now map on the Commission's website, and (iii) map of Virginia wineries.

Mr. Estes indicated that the funds will be available in October 2010 and a vendor should be on board by early 2011, with an estimated launch of summer 2011. In response to questions, Mr. Estes estimated that the initial phase of the project would include installation of the multimedia centers in six or seven Welcome Centers.

Civil War 150 HistoryMobile

John Hennessy, Chief Historian/Chief of Interpretation, Fredericksburg and Spotsylvania National Military Park

Mr. Hennessy summarized a revised and enhanced overview/script for the *Civil War 150 HistoryMobile*. Since the *HistoryMobile* is intended to function primarily as an educational tool accessible to school children, Mr. Hennessy advised that the contents contain limited text and be highly interactive and experiential. Mr. Hennessy outlined the basic structure of the storyline describing what visitors will experience as they move through the *HistoryMobile*:

- Visitors will start with an introductory short film on the causes of the Civil War using actual dialogue from that time period to frame the debate leading up to the war.
- Visitors will then proceed to an immersive environment in which sight and sound will be used to convey the human experience of battle.
- From the battlefield experience, visitors will move to the facade of a dilapidated farm house where the focus shifts to the home front.
- Visitors will participate in a decision-making interactive that emphasizes the dilemmas that many Virginians faced during the war.
- Next, visitors will encounter *Journey to Freedom*, an interactive exhibit that will guide visitors through the decisions that faced slaves during the war.
- Finally, visitors will enter the concluding portion of the exhibit, which will include an overview of the losses, gains, and legacies of the Civil War, with a focus on encouraging visitors to further explore the many historical sites and battlefields in Virginia.

In response to questions, Mr. Hennessy assured members that stories of slavery and freedom are interwoven throughout the exhibit. Members expressed their appreciation and agreed that this storyline should move forward.

Dale Bennett, Executive Vice President,
Virginia Trucking Association

Mr. Bennett provided a status update on the donation of a tractor for the *HistoryMobile*. Mr. Bennett explained that he is still in discussions with Volvo Trucks North America and that the company is amenable to donating a tractor for the project; however, the details have not yet been finalized. Mr. Bennett further stated that Volvo indicated that at the very least it would refurbish a 2006 or 2007 tractor with a sleeper cab and provide it at a low-cost lease rate. Mr. Bennett expressed his desire to continue negotiating with Volvo to try and secure a tractor and trailer free of charge.

Cheryl Jackson, Virginia Sesquicentennial of
the American Civil War Commission

Ms. Jackson presented a brief overview of the development of the *HistoryMobile* and the process of issuing an RFP for its fabrication and tour management. Ms. Jackson indicated that an initial estimate for fabrication of the storyline as presented is approximately \$770,000 with an estimated \$550,000 to operate the *HistoryMobile* for a 24-week tour. A significant portion of the costs will be paid with grant funds from the National Endowment for the Humanities, Altria, Wal-Mart, and other private donors.

Ms. Jackson suggested the following development schedule over the next few months:

- June - Continue to hone storyline with John Hennessy and staff of the Virginia Historical Society.
- July/August - Issue an RFP for fabrication and tour management.
- August/September - Evaluate bids from the RFP and present recommendations to the Executive Committee for consideration and approval.
- October - Have designer in place.

The above schedule will allow for fabrication in early 2011, with an estimated launch date of spring/summer 2011.

Executive Committee members agreed to move ahead with the *HistoryMobile* development as Ms. Jackson proposed. Ms. Jackson was asked to continue working with Dale Bennett on tour logistics and to secure a donated or low-cost tractor trailer.

Virginia Historical Society exhibition

Dr. Paul Levensgood, President and CEO,
Virginia Historical Society

Dr. Levensgood informed members that since the Manassas Museum had to table plans for an expansion, it would no longer be able to host the gallery exhibition, "*An American Turning Point: The Civil War in Virginia*," as planned due to lack of sufficient space. However, Dr. Levensgood stated that the gallery exhibition would still be able to travel to Northern Virginia for display at the National Marine Corps Museum in Quantico. Advantages of this location include its proximity to I-95 and the fact that the museum boasts 500,000 visitors per year. The Marine Corps Museum will be able to accommodate the entire exhibition at one time due to a planned expansion of the location. The exhibition is slated to be at the Marine Corps Museum from January through June of 2014. Dr. Levensgood also explained that although Manassas cannot host the gallery exhibition as it will appear at the Marine Corps Museum, it will still be able to host the panel version of the exhibition. Additionally, an enhanced version of the panel exhibit will be on display at the Fredericksburg Area Museum.

A motion passed unanimously approving the change of venue from the Manassas Museum to the National Marine Corps Museum.

Virginia Tourism

Diane Bechamps, VP Marketing,
Richard Lewis, Public Relations Manager,
Virginia Tourism Corporation (VTC)

Mr. Lewis presented an overview of sesquicentennial marketing and public relations activities undertaken by the VTC to date. In addition to conducting research to update the profile of Civil War travel in Virginia, the VTC has also administered the sesquicentennial marketing grant program awarding over \$33,000 to local committees throughout the state.

Mr. Lewis continued by outlining future promotional activities planned for the sesquicentennial that include:

- Commercial spots.
- Newspaper ads.
- International marketing in the United Kingdom and Germany.
- Email blasts.
- A webpage dedicated to the sesquicentennial commemoration.

Further, Mr. Lewis explained that one of the Virginia Travel Guides will feature Civil War travel in Virginia on its cover and will have four pages dedicated to the topic in 2011.

Ms. Bechamps reiterated that Civil War travelers as a group are a tourism driver for Virginia, staying longer than other tourists and spending 50 percent more. Ms. Bechamps continued by reviewing the costs associated with the future activities Mr. Lewis previously outlined. Additionally, Ms. Bechamps discussed the cost of making VTC's website www.virginia.org interactive, advertising the Commission's document digitization program, and creating a children's program where children are rewarded based on the number of Civil War sites they visit. Ms. Bechamps explained that given the costs of advertising today, she estimates that all of these activities will cost an additional \$650,000.

Executive Committee members had a number of questions regarding the cost of the proposal. Ms. Bechamps confirmed that the VTC will receive an additional \$7.2 million in the next two fiscal years through the appropriation act, leading members to express concern as to the necessity for additional funds for the activities as presented. Ms. Bechamps and Mr. Lewis reiterated VTC's commitment to marketing the sesquicentennial commemoration with or without additional funding.

Members declined to take action on the proposal, requesting instead that VTC work with staff of the Commission, Senate Finance Committee, House Appropriations Committee, and Department of Planning and Budget to pare down the proposed budget, eliminate duplicative and unnecessary spending, and establish

performance benchmarks. Once revised, the proposal will be considered at an upcoming meeting.

Staff Updates

Funding Allocations

Ms. Jackson presented recommendations for funds remaining in the Commission's budget for fiscal year 2010. Ms. Jackson explained that after conferring with finance staff, it was suggested that given the uncertain budgetary times, the bulk of the unexpended funds should be carried over to the next fiscal year. However, some of the remaining funds could be used on Commission projects in FY 2010. These projects include an estimated \$30,000 - \$50,000 to develop and install signage promoting the sesquicentennial commemoration in each of the Welcome Centers and other visitor centers throughout Virginia, as well as an additional \$200,000 to double the number of grants available to local sesquicentennial committees.

A motion passed unanimously that the suggested funding allocations for FY10 as outlined by Ms. Jackson be approved.

Logo Requests Approved and Pending

In accordance with the procedure established by the Executive Committee, Ms. Jackson presented a list of applications to affix the Commission's logo that had been preapproved by staff. A motion passed unanimously that staff recommendations for approval of logo applications be given final approval by the Executive Committee.

Advisory Council Meeting

Ms. Jackson suggested that the Advisory Council be convened later this summer to update members on Commission projects and seek feedback. The Executive Committee agreed and directed Ms. Jackson to proceed with coordinating the meeting.

Demonstration of "Walk in Their Footsteps" Database

Due to time constraints, a demonstration of the *Walk in Their Footsteps* database was tabled until the next meeting.

**VIRGINIA SESQUICENTENNIAL OF THE
AMERICAN CIVIL WAR COMMISSION**

SPEAKER WILLIAM J. HOWELL, CHAIR
Cheryl Jackson and Michele Howell
DLS Staff

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<http://www.virginiacivilwar.org>

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2010 Legislative Studies Staffed by DLS Staff

NEW Legislative Studies

Bill and Patron	Description	DLS Staff
HB 676 (May) SB 23 (Locke)	Aerospace Advisory Council (now requires staffing by DLS)	Lisa Wallmeyer
SB 101 (Stosch)	Public-Private Partnership Advisory Commission (now requires staffing by DLS)	Amigo Wade Maria Everett
SB 350 (Hanger)	Virginia Commission on the Centennial of Woodrow Wilson's Presidency	Brenda Edwards Mindy Tanner
HJ 121 (Griffith)	Ownership of Coalbed Methane and Other Natural Gases	Ellen Porter Marty Farber

CONTINUING Legislative Studies

Bill and Patron	Description	DLS Staff
HJ 134 (Jones)	Transportation Network of Hampton Roads	Alan Wambold Caroline Stalker
HJ 135 (Athey) SJ 89 (Vogel)	Land Use Tools of Localities	Kevin Stokes, Jeff Sharp, Rebecca Young
SJ 73 (Hanger)	Strategies and Models for Substance Abuse Prevention and Treatment	Sarah Stanton Robie Ingram

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 or the Code Commission staff at (804) 786-3591 for further information.

TITLE 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 13 of the Code of Virginia, which excludes the Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to § 3.2-5206 of the Code of Virginia.

2VAC5-490. Regulations Governing Grade "A" Milk (amending 2VAC5-490-10, 2VAC5-490-15, 2VAC5-490-32, 2VAC5-490-35, 2VAC5-490-36, 2VAC5-490-37, 2VAC5-490-40, 2VAC5-490-50, 2VAC5-490-73, 2VAC5-490-105, 2VAC5-490-131, 2VAC5-490-138, 2VAC5-490-140; adding 2VAC5-490-30.1).

Written public comments may be submitted until September 20, 2010.

Summary:

The proposed amendments adopt the provisions of the 2009 revision of the Pasteurized Milk Ordinance (PMO). The PMO is a federal model regulation for states to adopt to govern the production, processing, distribution, and sale of grade A milk and milk products. The requirements in the PMO are established under a cooperative state and federal program operated in cooperation with the National Conference on Interstate Milk Shipment (NCIMS). NCIMS is composed of dairy industry representatives, state milk regulatory personnel, representatives from the federal Food and Drug Administration, and members of academia. The NCIMS holds a conference every two years for the purpose of considering changes to the requirements of the PMO. The PMO establishes minimum standards for individual dairy farms, dairy plant processors, and state regulatory programs to comply with interstate milk shipment (IMS) ratings. Milk from grade A farm suppliers and dairy processors must achieve acceptable IMS rating scores to be shipped in interstate commerce. IMS ratings provide the mechanism for the orderly marketing of milk and milk products in the United States. Compliance with IMS rating requirements is essential to maintain the ability of Virginia dairy

farms and plants to market their products outside of Virginia.

The most important change concerns the definition of "grade A milk product" because this definition determines which milk products will fall under the grade A regulation. For the first time, the definition establishes a clear line between those milk products that will be regulated as grade A and those that will not. The new definition establishes that grade A milk products must be composed of at least 65 percent by weight milk and milk products and contain at least two percent milk protein. This definition will cause some cultured milk products currently produced in nongrade A plants in Virginia and other states to fall under the grade A regulations once adopted. The proposed amendments include an exemption for Virginia processors currently making these cultured milk products to continue to do so after the regulation goes into effect. The exemption will allow these Virginia processors to market their cultured milk products in Virginia, but the cultured milk products will still be considered in violation if found in interstate channels.

Numerous changes to definitions are proposed, including (i) amending the definition of "dairy farm" to clarify that only milk or milk products offered for sale for human consumption are included; (ii) deleting the definition for "evaporated milk"; (iii) changing references to the 2005 PMO to the 2009 PMO under definitions for "grade A condensed and dry whey," "grade A condensed milk," "grade A dry milk product," and "grade A dry milk and whey product"; (iv) adding a definition for "lowfat dry milk"; (v) amending the definition of "milk product" to reference 2VAC5-490-15; and (vi) amending the definition of "pasteurization" to be consistent with the definition of "pasteurization" in the PMO.

The following changes and new requirements also are included:

2VAC5-490-15 defines which milk and milk products are included under the grade A regulation.

2VAC5-490-30.1 establishes an exemption allowing restaurants to make and serve yogurt in their facility.

2VAC5-490-32 was amended to clarify the regulatory authority's ability to impound milk and milk products found in violation of the regulation.

2VAC5-490-35 was amended to reference the 2007 version of the "Evaluation of Milk Laboratories."

2VAC5-490-36 was amended to reference the most recent revision of M-I-96-10 (Revision #7) dated January 4, 2010.

2VAC5-490-37 was amended to reference the 2007 version of the "Evaluation of Milk Laboratories" and to delete language referencing the initial compliance date for industry labs under the regulation.

2VAC5-490-40 was amended to include labeling requirements for dry milk products.

2VAC5-490-50 was amended to:

1. Allow the process of filtration or bacto-fugation to be used on grade A milk and milk products;
2. Raise the somatic cell standard for goat's milk to 1,500,000 cells per milliliter from 1,000,000 cells per milliliter;
3. Include quality standards for nonfat dry milk;
4. Reference the 2009 version of the PMO;
5. Include temperature storage requirements for whey and whey products being held for condensing or drying;
6. Include an exemption for immediate cooling of milk and milk products to 45°F when they are intended to be dried or condensed immediately after processing or for certain cultured dairy products based on specific pH values for each product;
7. Include extended cooling times for cultured sour cream and acidified sour cream with a pH of 4.70 or 4.60 respectively;
8. Include specific cooling times for yogurt products and cultured butter milk;
9. Require indicating thermometers in each room where milk products are stored;
10. Provide the regulatory authority access to certain plant records pertaining to cleaning and product storage temperatures;
11. Eliminate the allowance for cottage cheese to be packaged outside the plant where it was pasteurized and processed;
12. Include packing, storage, and transport requirements for dry milk products; and
13. Clarify the minimum facilities requirements for each milk processing plant.

2VAC5-490-73 was amended to clarify the intent to regulate only those milk products offered for sale for human consumption.

2VAC5-490-105 was amended to allow the regulatory authority the discretion to extend agreements beyond two years for purposes of studying new or test equipment and facilities installed on Virginia dairy farms.

2VAC5-490-131 and 2VAC5-490-140 were amended to reference the 2009 version of the PMO.

For more information, please contact John A. Beers, Program Supervisor, Department of Agriculture and Consumer Services, Richmond, VA, telephone (804) 786-1452, FAX (804) 371-7792, TTY (800) 828-1120, or email john.beers@vdacs.virginia.gov.

TITLE 8. EDUCATION STATE BOARD OF EDUCATION

REGISTRAR'S NOTICE: The reserved sections shown in the following State Board of Education proposed Regulations Governing Local School Boards and School Divisions (8VAC20-720) were published in 26:1 VA.R. 38-43 September 14, 2009. The following two regulatory actions repeal current outdated regulations and replace them with provisions in proposed 8VAC20-720 relating to (i) student fees and charges and (ii) textbooks and instructional materials, respectively.

8VAC20-370. Rules Governing Fees and Charges (repealing 8VAC20-370-10).

8VAC20-720. Regulations Governing Local School Boards and School Divisions (adding 8VAC20-720-10 through 8VAC20-720-170).

Written comments may be submitted until July 26, 2010.

Summary:

The Rules Governing Fees and Charges, 8VAC20-370-10, were adopted on or before September 1, 1980, and have not been amended since that time. The Board of Education proposes to repeal these current regulations governing fees charged by local school divisions and create new provisions that would be added as a section to the proposed Regulations Governing Local School Boards and School Divisions, 8VAC20-720.

In addition to a different location within the Virginia Administrative Code, the proposed regulations governing fees charged by local school divisions would have the following

changes: (i) local school boards that charge fees would be required to have a policy and a fee schedule that would be provided to parents annually and posted on the school division's website; (ii) the policy would include a provision to waive or reduce fees for economically disadvantaged students and students whose families are undergoing economic hardships; (iii) the policy and fee schedule would be required to be consistent across the school division; and (iv) no fee could be charged that had not been approved by the local school division. Additionally, fees may not be charged (i) as a condition of school enrollment unless the student is not of school age or does not live within the jurisdiction; (ii) for textbooks or textbook deposits; however, local school divisions may assess a reasonable fee for lost or damaged textbooks; and (iii) for pupil transportation to and from school but may be charged for the student's pro rata cost of providing for voluntary extracurricular activities. However, fees may be charged for (i) summer school unless the summer school program is a remediation program required by the Standards of Quality; (ii) class dues; however, class dues shall not be mandatory and the school board must specify the kinds of programs and activities covered by class dues; (iii) consumable materials, such as workbooks, but the local school board must have a policy to ensure that these are furnished at a reduced price or free of charge to students who are unable to afford them; (iv) nonmandatory services such as parking and lockers; (v) the behind-the-wheel portion of the driver's education program; and (vi) the preparation and distribution of official paper copies of the student's transcript, provided that the school board first provides a reasonable number of copies for free and official electronic copies of transcripts at no cost. Also, a student may not be suspended or expelled for nonpayment of fees and charges.

For more information, please contact Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, Richmond, VA, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

8VAC20-170. Regulations Governing Instructional Materials -- Selection and Utilization by Local School Boards (repealing 8VAC20-170-10).

8VAC20-220. Regulations Governing Textbook Adoption State Level (repealing 8VAC20-220-10 through 8VAC20-220-70).

8VAC20-230. Regulations Governing Textbook Adoption Local Level (repealing 8VAC20-230-10 through 8VAC20-230-40).

8VAC20-270. Regulations Governing Textbook Fund Management and Handling on Local Level (repealing 8VAC20-270-10 through 8VAC20-270-130).

8VAC20-720. Regulations Governing Local School Boards and School Divisions (adding 8VAC20-720-10 through 8VAC20-720-170).

Written public comments may be submitted until July 26, 2010.

Summary:

The Board of Education currently has three sets of regulations governing textbooks and one set of regulations governing instructional materials. The regulations governing textbooks are: Regulations Governing Textbook Adoption State Level (8VAC20-220), Regulations Governing Textbook Adoption Local Level (8VAC20-230), and Regulations Governing Textbook Fund Management and Handling on Local Level (8VAC20-270). The regulations governing instructional materials are: Regulations Governing Instructional Materials – Selection and Utilization by Local School Boards (8VAC20-170). All of these regulations were adopted on or before September 1, 1980, and have not been amended since that time. The board proposes to repeal all four of these regulations and add provisions concerning textbooks and instructional materials to the proposed Regulations Governing Local School Boards and School Divisions (8VAC20-720). The proposed provisions relate to the approval of textbooks, basal textbooks, contracts with textbook publishers, and the selection of instructional materials by local school divisions.

For more information, please contact Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, Richmond, VA, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

TITLE 9. ENVIRONMENT
DEPARTMENT OF
ENVIRONMENTAL QUALITY

9VAC15-40. Small Renewable Energy Projects (Wind) Permit by Rule (adding 9VAC15-40-10 through 9VAC15-40-140).

A public hearing will be held on August 3, 2010, at 2 p.m. at the Department of Environmental Quality, Glen Allen, Virginia. Written public comments may be submitted until August 20, 2010.

Summary:

The proposal implements 2009 state legislation requiring the Department of Environmental Quality (DEQ) to develop one or more permits by rule for wind-energy projects with rated capacity not exceeding 100 megawatts. By means of this legislation, the General Assembly moved permitting authority for these projects from the State Corporation Commission to DEQ. By requiring a "permit by rule," the legislature is mandating that permit requirements be set forth "up front" within this regulation, rather than being developed on a case-by-case basis. The legislation mandates that the permit by rule include conditions and standards necessary to protect the Commonwealth's natural resources. The proposal establishes requirements for potential environmental impacts analyses, mitigation plans, facility site planning, public participation, permit fees, interagency consultations, compliance, and enforcement. The legislation requires DEQ to determine if multiple permits by rule are necessary to address all the renewable energy media. DEQ determined that multiple permits by rule are necessary. This proposal constitutes DEQ's permit by rule for wind energy projects.

For more information, please contact Carol C. Wampler, Department of Environmental Quality, Richmond, VA, telephone (804) 698-4579, FAX (804) 698-4346, or email carol.wampler.renewable.energy@gmail.com.

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