



# Virginia Department of Corrections

## Human Resources

### Operating Procedure 110.3

#### *Emergency Closings*

##### **Authority:**

Directive 110, *Time Utilization*

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**Access:** ☐ Restricted ☒ Public ☐ Inmate

##### **ACA/PREA Standards:**

None

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## REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

## COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

**Table of Contents**

DEFINITIONS ..... 3

PURPOSE ..... 4

PROCEDURE..... 4

    I.    Critical Services ..... 4

    II.   Liberal Leave ..... 4

    III.  Authorized Closing Decisions..... 5

    IV.  All Day Closings - Compensation..... 5

    V.    Partial Shift Closings - Compensation ..... 6

    VI.  Closing on Day of Original Appointment or Re-employment ..... 6

    VII.  Telework and Authorized Closings..... 7

    VIII. Communications Plan ..... 7

REFERENCES..... 7

ATTACHMENTS ..... 8

FORM CITATIONS ..... 8



## DEFINITIONS

**Critical Services** - DOC services such as security, food service, medical care, power plants, and facility maintenance that must be maintained regardless of weather conditions or other emergency conditions. The DOC may designate any service “critical” at any time.

**Essential Staff** - Employees who are required to work during an authorized closing because their positions have been designated as essential to Department operations during emergencies. These positions are required to work to maintain critical services during authorized emergency closings. These positions include employees serving in the working titles listed below, and any other specific positions designated by the respective Organizational Unit Head. Positions other than those listed below should be identified in advance and where possible, in writing. While on short-term disability under the Virginia Sickness and Disability Program (VSDP), employees in positions will be considered non-designated for the period of their approved disability.

Corrections Officer	Food Operations Director/Manager/Assistant
Corrections Officer Senior	Food Operations Supervisors
Corrections Sergeant	Power Plant Operators
Corrections Lieutenant	Building and Grounds Staff
Corrections Captain	Corrections Nurse Technician
Corrections Major	Registered Nurse
Chief of Housing and Programs	Registered Nurse Coordinator
Assistant Warden	Registered Nurse Clinician A & B
Warden	Chief P&P Officers
Assistant Superintendent	Deputy Chief P&P Officers
Superintendent	Senior P&P Officers
Sworn Law Enforcement Employees *	P&P Officers
*Including Supervisory Staff	Surveillance Officers

**Emergency Conditions** - Circumstances that require emergency closings to include inclement weather, utility failure, fire, or other forced evacuations from the work site.

**Liberal Leave** - A management decision to more generously approve the use of employee’s personal leave for unexpected absences in the event of identified potential or perceived threats to employee safety including inclement weather that may cause concern but do not necessitate the closing of state offices. The employee is still required to comply with all applicable operating procedures and to notify the immediate supervisor prior to the beginning of their scheduled work shift.

**Non-Essential Staff** - Employees who are not required to report to the work location or a defined remote work location during an authorized closing because their positions have not been designated as essential to emergency operations. Employees who are able to telework or work remotely at an alternate work location not impacted by the authorized closing are expected to do so; they are not eligible to receive compensatory leave for teleworking or working remotely during a closing.

**Organizational Unit Head** - The person occupying the highest position in a DOC organizational unit, such as a correctional facility, Regional Office, Probation and Parole Office, Virginia Correctional Enterprises, Academy for Staff Development, Infrastructure and Environmental Management Unit, Agribusiness Unit, and individual Headquarters units, e.g., Human Resources, Offender Management, Internal Audit.

**Pre-Approved Paid Leave** - Leave that has been requested by an employee and approved by management before the day on which it is taken.

**Richmond Area** - Richmond City and the Counties of Henrico, Chesterfield, and Hanover.



**PURPOSE**

This operating procedure identifies the process and conditions under which Department of Corrections (DOC) critical services will continue to be provided during emergency closings and staff who will be required to provide those services in accordance with Department of Human Resources Management (DHRM) Policy 1.35 *Emergency Closings*.

**PROCEDURE****I. Critical Services**

- A. To fulfill the DOC's public safety commitment, critical services must be maintained. Designated staff are required to work during emergency events and inclement weather to maintain critical services. Critical services include but are not limited to:
  - 1. Security
  - 2. Food Service
  - 3. Medical Care
  - 4. Power Plants
  - 5. Facility Maintenance
- B. The DOC may designate any position or employee as necessary to maintain critical services.
- C. Essential staff are expected to make every effort to report to work on time and complete their scheduled work hours while exercising personal safety precautions.
- D. In response to emergency staffing needs, essential staff may be required to work during times when they are not scheduled to work.

**II. Liberal Leave**

- A. Liberal leave may be allowed when an Organizational Unit Head does not believe conditions are severe enough to declare an inclement weather closing but determines transportation difficulties are likely.
  - 1. Liberal leave is generally interpreted as to encourage supervisors to be generous in approving time off when there are identified potential or perceived threats to employee safety, such as impending or actual inclement weather.
  - 2. Liberal leave days may be designated as Code Yellow.
- B. Organizational unit heads, with the approval of the appropriate Regional Operations Chief, may declare liberal leave when conditions exist that make transportation to or from work difficult or dangerous.
- C. Non-essential staff who believe they should not travel or cannot make their regularly scheduled start time due to weather conditions may request liberal leave until conditions allow them to arrive at work.
- D. Non-essential staff may elect, with supervisor approval, to not report to work and to utilize their available leave balances (annual, compensatory, or family/personal), telework, or take leave without pay.
- E. Non-essential staff must call into their workplace in accordance with normal leave procedures to request liberal leave.
- F. During periods of liberal leave, employees who report to work or telework do not earn compensatory leave.
- G. Management's advice to allow "liberal leave" does not relate to pre-disciplinary leave, DHRM Policy 4.05, *Civil and Work Related Leave*, nor does it create an additional type of paid leave.
- H. Employees should make every reasonable effort to report to work as scheduled.



### III. Authorized Closing Decisions

- A. Decisions to close administrative offices and functions in the Richmond area, Richmond City and the Counties of Henrico, Chesterfield, and Hanover, are made by the Governor. The authorized closing may be for all day or a partial shift.
- B. The Director or designee will make emergency closing decisions that affect only the Department of Corrections. Closing decisions may be designated as Code Red.
- C. Decisions to close organizational units outside the Richmond area and facilities within the Richmond area will be made by the appropriate Regional Operations Chief upon recommendation of the organizational unit head.
  - 1. The Governor's decisions to close State offices in the Richmond area do not apply to these units and facilities.
  - 2. The Governor has the authority to order all State offices and facilities closed statewide if needed.
- D. For organizational units that provide 24-hour services, the decision to close will be made for each individual shift. Non-essential staff will not be required to report for the closed shift. If a closure decision, not liberal leave, is initiated, essential staff will earn compensatory leave for hours worked during the authorized emergency closing period.

### IV. All Day Closings - Compensation

#### A. Compensation for Non-Essential Staff

- 1. Non-essential employees, who are able to telework or work remotely, are expected to work during authorized closings to ensure continuity of operations. These employees are not eligible for compensatory leave while teleworking or working remotely during the closing.
- 2. Non-essential staff who are unable to telework or work remotely during an authorized closing for an entire shift should be paid for the hours they are regularly scheduled to work. To qualify for payment, employees must have worked or be on paid leave the scheduled workday before and the scheduled workday after such closing.
- 3. Classified part-time employees who are unable to telework or work remotely will be paid for the number of hours they were regularly scheduled to work.
- 4. Wage (P-14) employees are only paid for hours actually worked, not for scheduled hours during a closing.
- 5. The Director, or designee, may determine if employees working an alternate schedule as defined in Operating Procedure 110.1, *Hours of Work and Leaves of Absence* receive compensation for the hours they were scheduled to work during the authorized closing up to the total hours of the closing. If the employee is paid for only eight hours of closing, any additional hours not worked must be charged to leave, or leave without pay as appropriate, or must be worked during the workweek or period.
- 6. Employees on pre-approved leave with pay during an authorized closing will continue to use their available leave balances for the absence.
- 7. Employees who report to work because they were unaware of the authorized closing will receive their regular rate of pay for hours worked during the closing. They will not be credited with compensatory leave except in extreme or extenuating circumstances approved by both the Organizational Unit Head and Director of Human Resources.
- 8. When a non-essential employee's scheduled resignation date falls on an authorized closing for the entire shift, the employee will be paid for that day if the employee worked or was on pre-approved paid leave the day before the authorized closing.
- 9. Non-essential staff who are on the Virginia Sickness and Disability Program, (VSDP) during an authorized closing will continue to receive appropriate benefits under the VSDP program.



**B. Compensation for Essential Staff**

1. Essential staff who are required to work on-site during an emergency closing will be credited with compensatory time for hours worked during the emergency closing. Wage (P-14) employees are not eligible to accrue compensatory leave.
2. Essential staff who are required to work in excess of their regularly scheduled hours will be compensated in accordance with the *Fair Labor Standards Act* (FLSA) and the *Virginia Overtime wage Act* (VOWA) for the additional hours worked, provided they are in a non-exempt position.
3. Essential staff who do not report to work as scheduled may be subject to disciplinary action under Operating Procedure 135.1, *Standards of Conduct*, and may be unable to utilize accumulated leave to cover the hours they failed to report for work.
  - a. Employees on pre-approved leave with pay during an authorized closing will continue to use their available leave balances for the absence.
  - b. When road conditions and transportation difficulties cause an essential employee to arrive late, the Organizational Unit Head may determine that the conditions and difficulties justified the tardiness and the lost time should be charged to emergency closing leave, not to the employee's leave balances or to leave without pay and no disciplinary action should be taken.
4. If an emergency closing occurs on an essential employee's last scheduled workday prior to the separation, the employee is expected to work as scheduled if not on pre-approved leave. Otherwise, the last day the employee worked will be considered as their effective date of separation.

**V. Partial Shift Closings - Compensation**

- A. When inclement weather or other emergency conditions result in authorized changes in the work schedule, such as late openings or early closings, non-essential staff who are not eligible for telework will be paid for the period of closure that meets their normal scheduled hours. To be eligible for pay employees must have worked or have been on pre-approved leave with pay the scheduled workday before and the scheduled workday after the partial closing.
- B. Employees who are on pre-approved leave with pay during a partial shift closing will continue to use their leave balances for the absence during the authorized closing. Emergency closing leave is not applicable because the employee was not expected to work during the closing.
- C. Employees who report to work because they were unaware of the partial closing will receive their regular rate of pay for the hours they worked during the closing but will not be credited with compensatory leave and will not receive a schedule adjustment except in extreme or extenuating circumstances approved by both the Organizational Unit Head and Director of Human Resources.
- D. Essential staff who are required to work during authorized partial-shift closings will be credited with compensatory time for hours worked during the authorized partial-shift closing.
  1. Essential staff who fail to report during partial-shift closings will be subject to disciplinary action under Operating Procedure 135.1, *Standards of Conduct*, unless extenuating circumstances, as ruled by the Organizational Unit Head, prevent reporting.
  2. Essential staff in non-exempt classifications who are required to work in excess of the hours in their regularly scheduled shift because of an authorized partial-shift closing, will be compensated in accordance with the FLSA and the VOWA, for hours exceeding the threshold in their work week/work period.
  3. Closing on Rest Days - Employees whose scheduled "rest" or "off" day falls on a day when there is an authorized closing (or partial-shift closing) will not be credited with compensatory time.

**VI. Closing on Day of Original Appointment or Re-employment**

- A. When a non-essential employee is scheduled to begin work on an authorized closing day, the employee



will receive pay for that day if the employee works the entire day following the authorized closing.

- B. New employees who are identified as essential will be required to work their regularly scheduled shift, unless the Organizational Unit Head instructs not to report based on safety concerns. If employees are instructed to not report to the work location on a start date, they will be eligible for Emergency Closing Leave if they work the entire day following the emergency closing.

## VII. Telework and Authorized Closings

- A. Supervisors must communicate to employees eligible to telework who have an approved telework agreement the expectations for continuing to work during full and partial authorized closings and must document this expectation in the “*Continuity of Operations ‘Emergency Closing’ Status*” section of the employee’s Telework Agreement.
- B. Employees who telework during authorized closings are not eligible to receive compensatory leave.
- C. If an authorized closing falls on the employee’s normally scheduled telework day, and the employee is teleworking, the employee is expected to continue to work. If the employee does not work, they must take paid or unpaid leave approved by their supervisor.
- D. Employees may be instructed to telework on a non-scheduled telework day during an emergency closing. No compensatory leave is awarded in these circumstances.
- E. During early closings or delayed openings, non-essential employees able to telework or work remotely are expected to maintain their normal work schedules.
- F. A supervisor may allow for or instruct an employee, who has no telework agreement, to telework during an authorized closing if the employee has the necessary tools, which meet system security standards to telework. If the authorized closure is extended, the supervisor should obtain a temporary telework agreement as soon as possible to ensure work and performance expectations are clearly conveyed to the employee.

## VIII. Communications Plan

- A. Each Organizational Unit Head must inform employees of the news media they will utilize to announce closings. Facilities or other organizational units outside the Richmond area will submit to the appropriate Regional Operations Chief, by November 1 of each calendar year, procedures for informing unit employees of closings.
- B. The Governor, when closing administrative offices in the Richmond area, informs the news media. DHRM announces the Governor’s decisions about authorized daytime closings of administrative offices in the Richmond area through television and radio stations. In addition, closing information will be available on DHRM’s web site ([www.dhrm.virginia.gov](http://www.dhrm.virginia.gov)).
- C. If employees have any questions on whether or not to report, they should contact their supervisor or organizational unit head.
- D. Liberal leave or closings may be communicated by announcing their color code.
  - 1. Liberal leave is a Code Yellow.
  - 2. Office closing is Code Red.

## REFERENCES

DHRM Policy 1.35, *Emergency Closings*

DHRM Policy 4.05, *Civil and Work Related Leave*

Operating Procedure 110.1, *Hours of Work and Leaves of Absence*

Operating Procedure 135.1, *Standards of Conduct*



[U.S. Department of Labor, \*Fair Labor Standards Act\*](#)

*Virginia Overtime Wage Act*

## **ATTACHMENTS**

None

## **FORM CITATIONS**

None

