



# Operating Procedure

<b>Effective Date</b> September 1, 2018	<b>Number</b> 110.3
<b>Amended</b>	<b>Operating Level</b> Department
<b>Supersedes</b> Operating Procedure 110.3 (6/1/15)	
<b>Authority</b> COV §2.2-1201, §53.1-10	
<b>ACA/PREA Standards</b> None	
<b>Office of Primary Responsibility</b> Director of Human Resources	

**Subject**

**EMERGENCY CLOSINGS**

**Incarcerated Offender Access**  
Yes  No

**Public Access** Yes  No   
**Attachments** Yes  No

**I. PURPOSE**

This operating procedure is designed to identify the process and conditions under which Department of Corrections 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 [Policy 1.35 Emergency Closings](#).

**II. COMPLIANCE**

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

**III. 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

**Designated Staff** - Employees serving in the working titles listed below, plus any other specific positions designated by the respective Organizational Unit Head; employees in these positions are required to work to maintain critical services during authorized emergency closings. 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 designated positions will be considered non-designated for the period of their approved disability.

- |                               |  |
|-------------------------------|--|
| Corrections Officer           | Registered Nurse                             |
| Corrections Officer Senior    | Registered Nurse Coordinator                 |
| Corrections Sergeant          | Registered Nurse Clinician A                 |
| Corrections Lieutenant        | Registered Nurse Clinician B                 |
| Corrections Captain           | Food Operations Director/Manager & Assistant |
| Corrections Major             | Food Operations Supervisors                  |
| Chief of Housing and Programs | Power Plant Operators                        |
| Corrections Nurse Technician  | Building and Grounds Staff                   |

**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-Designated Staff** - Employees who are not normally required to work during an authorized closing

**Organizational Unit Head** - The person occupying the highest position in a DOC operating unit, such as a correctional facility, regional office, probation and parole office, Virginia Correctional Enterprises (VCE), Academy for Staff Development, Corrections Construction Unit, Agribusiness Unit, or other separate

operational unit

**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

#### IV. PROCEDURE

##### A. Critical Services

1. 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:
  - a. Security
  - b. Food Service
  - c. Medical Care
  - d. Power Plants
  - e. Facility Maintenance
2. The DOC may designate any position or employee as necessary to maintain critical services.

##### B. Liberal Leave

1. Liberal leave may be allowed when an organizational unit head does not believe that conditions are severe enough to declare an inclement weather closing, but determines that transportation difficulties are likely. Generally interpreted to urge 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. Liberal leave days may be designated as Code Yellow.
2. Organizational unit heads outside the Richmond area, and facilities within the Richmond area, 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.
3. Non-designated staff who believes they should not travel or cannot make their regularly scheduled start time due to the weather conditions may request to exercise the liberal leave option until conditions allow them to arrive at work.
4. Non-designated staff may elect, with supervisor approval, to not report to work and to utilize their available leave balances (annual, compensatory, or family/personal) or take leave without pay.
5. Non-designated staff must call into their work place in accordance with normal leave procedures to request liberal leave.
6. During periods of liberal leave, employees who choose to report to work will earn no compensatory leave.
7. Management's advice to allow "liberal leave" does not relate to Administrative Leave (DHRM Policy 4.05) nor does it create an additional type of paid leave.
8. Employees should make every reasonable effort to report to work as scheduled.

##### C. Authorized Closing Decisions

1. Decisions to close administrative offices and functions in the Metropolitan Richmond area (Richmond City and the Counties of Henrico, Chesterfield, and Hanover) will be made by the Governor. The authorized closing may be for all day or a partial shift.
2. The Director or designee will make emergency closing decisions that affect only the Department of Corrections. Closing decisions may be designated as Code Red.
3. Decisions to close organizational units outside the Richmond area and facilities within the Richmond area shall be made by the appropriate Regional Operations Chief upon recommendation of the

organizational unit head.

- a. The Governor's decisions to close State offices in the Richmond area do not apply to these units and facilities.
  - b. The Governor has the authority to order all State offices and facilities closed statewide if needed.
4. For organizational units that provide 24-hour services, the decision to close shall be made for each individual shift. Non-designated staff will not be required to report for the closed shift. If a closure decision (not liberal leave) is initiated, designated staff will earn compensatory leave for hours worked during their impacted shift.

#### D. All Day Closings - Compensation

##### 1. Compensation for Non-Designated Staff

- a. Non-designated staff absent due to 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 pre-approved leave the scheduled work day before and the scheduled work day after such closing.
- b. Classified part-time employees shall be paid for the number of hours they were regularly scheduled to work.

*Example:* A half time employee (20 hours per week) is scheduled to work eight hours on Monday, eight hours on Tuesday, and four hours on Wednesday. An entire shift closing is authorized for Tuesday during the same eight hours the employee is scheduled to work. The employee will be paid for eight hours. If the closing occurs on Wednesday, the employee will be paid for only four hours.

2. 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 work week or period.

*Example:* A full-time employee (40 hours a week) is scheduled to work four ten-hour days Monday through Thursday. An entire shift closing is authorized for the first two shifts on Monday and for the first shift only on Tuesday. The employee may be paid for ten hours on Monday and eight hours on Tuesday. Or, subject to supervisor approval, the employee's work schedule may be adjusted to work an additional two hours later in the work week. When an employee on an alternate work schedule is scheduled to work less than an eight hour day on an authorized closing day, the employee will be paid only for the hours scheduled.

3. Employees on pre-approved leave with pay on an authorized closing day will not be charged leave, provided they work or are on paid, pre-approved leave the scheduled work day before and the scheduled work day after such closing.
4. Employees who report to work because they were unaware of the authorized closing will receive their regular rate of pay for the hours they worked during the closing, but 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.
5. When an 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.
6. Non-designated staff who are on the Virginia Sickness and Disability Program (VSDP) during an authorized closing will continue to receive appropriate benefit under the VSDP program.

##### 7. Compensation for Designated Staff

- a. Designated staff who work their regularly scheduled shifts during an authorized closing will be

credited with compensatory time for those hours worked during the authorized closing.

- b. Designated staff who are required to work in excess of their regularly scheduled hours will be compensated in accordance with the Fair Labor Standards Act for the additional hours worked, provided they are in a non-exempt, classified position.
- c. Designated 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 that they failed to report for work.
  - i. Employees on pre-approved leave with pay during an authorized closing will not be charged leave for the day.
  - ii. When road conditions and transportation difficulties cause a designated employee to arrive late, the organizational unit head may determine that the conditions and difficulties justified the tardiness and that the lost time should not be charged to the employee's leave balances or to leave without pay and no disciplinary action should be taken.
- d. Designated staff cannot earn more compensatory time than their normally scheduled hours of work during any one day of authorized closing or on successive shifts.
- e. Designated staff whose resignations are effective the day of an all-day authorized closing are expected to work. If they do not work, the effective separation date will be the last day actually worked.

#### E. Partial Shift Closings - Compensation

1. When inclement weather or other emergency conditions result in authorized changes in the work schedule such as late openings or early closings, non-designated staff shall be paid for the period of closure that meets their normal scheduled hours. To be eligible for pay:
  - a. Employees must have worked or have been on pre-approved leave with pay the scheduled work day before and the scheduled work day after the partial closing to be eligible for compensation.
  - b. Employees who are on pre-approved leave with pay on a day of a partial shift closing or employees who request and are approved to take leave with pay on the day of the partial closing, may be paid for the hours of closure (that they normally would have worked) and not be required to use leave for those hours provided they worked the scheduled work day before and the scheduled work day after such a 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.
2. Designated staff who are required to work during authorized partial-shift closings shall be credited with compensatory time for hours worked during the authorized partial-shift closing.
3. Designated 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.
4. Designated 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 [Fair Labor Standards Act](#), for hours exceeding the threshold in their work week/work period.

F. 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.

#### G. Closing on Day of Original Appointment or Re-employment

1. When a non-designated 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.

2. New employees who are identified as designated shall be required to work their regularly scheduled shift; however, their appointment will not be effective if they do not. If they do not report to work, their appointment may be effective the first day they do report to work or at the discretion of the organizational unit head.

H. Transportation - When inclement weather or other emergency conditions create transportation difficulties that result in the late arrival of employees to work, the organizational unit head may decide whether the late arrival is justifiable in view of the conditions and designate that no loss of pay or use of leave is required in specific instances.

I. Communications Plan

1. 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 shall submit to the appropriate Regional Operations Chief, by November 1 of each calendar year, procedures for informing unit employees of closings.

2. The Governor, when closing administrative offices in the Richmond area, will inform the news media. The Department of Human Resource Management (DHRM) will announce the Governor's decisions about authorized daytime closings of administrative offices in the Richmond area through television and radio stations. These stations will be identified yearly in October/November via DOC memorandum and through the issuance of DHRM's employee newsletter. In addition, closing information will be available on [DHRM's web site \(www.dhrm.virginia.gov\)](http://www.dhrm.virginia.gov).

3. If employees have any questions on whether or not to report, they should contact their supervisor or organizational unit head.

4. Liberal leave or closings may be communicated by announcing their color code. Liberal leave is a Code Yellow. Office closing is Code Red.

V. REFERENCES

[DHRM Policy 1.35 Emergency Closings](#)

[Fair Labor Standards Act](#)

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

Operating Procedure 135.1, *Standards of Conduct*

VI. FORM CITATIONS

None

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

*Signature Copy on File*

*July 13, 2018*

N. H. Scott, Deputy Director for Administration

Date