



# VIRGINIA

## REGISTER OF REGULATIONS

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# VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## **FAST-TRACK RULEMAKING PROCESS**

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## **STATEMENT**

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

*The Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **Gregory D. Habeeb**, Vice Chair; **Jay Leftwich**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Rita Davis**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Charles S. Sharp**; **Samuel T. Towell**; **Mark J. Vucci**.

Staff of the Virginia Register: **Karen Perrine**, Acting Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Alexandra Stewart-Jonte**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Senior Operations Staff Assistant.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

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## June 2018 through April 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
34:21	May 23, 2018	June 11, 2018
34:22	June 6, 2018	June 25, 2018
34:23	June 20, 2018	July 9, 2018
34:24	July 3, 2018 ( <b>Tuesday</b> )	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018
35:1	August 15, 2018	September 3, 2018
35:2	August 29, 2018	September 17, 2018
35:3	September 12, 2018	October 1, 2018
35:4	September 26, 2018	October 15, 2018
35:5	October 10, 2018	October 29, 2018
35:6	October 24, 2018	November 12, 2018
35:7	November 7, 2018	November 26, 2018
35:8	November 19, 2018 ( <b>Monday</b> )	December 10, 2018
35:9	December 5, 2018	December 24, 2018
35:10	December 14, 2018 ( <b>Friday</b> )	January 7, 2019
35:11	January 2, 2019	January 21, 2019
35:12	January 16, 2019	February 4, 2019
35:13	January 30, 2019	February 18, 2019
35:14	February 13, 2019	March 4, 2019
35:15	February 27, 2019	March 18, 2019
35:16	March 13, 2019	April 1, 2019
35:17	March 27, 2019	April 15, 2019
35:18	April 10, 2019	April 29, 2019

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Initial Agency Notice

Title of Regulation: **2VAC5-490. Regulations Governing Grade "A" Milk.**

Statutory Authority: § 3.2-5206 of the Code of Virginia.

Name of Petitioner: Virginia State Dairymen's Association.

Nature of Petitioner's Request: The petitioner is requesting that the Board of Agriculture and Consumer Services amend 2VAC5-490-50 by reducing the allowed maximum somatic cell count from the current 750,000 to 500,000 somatic cells per milliliter. The petitioner also requests this section be amended to reduce the allowed maximum bacteria count from 100,000 to 50,000 bacteria per milliliter prior to commingling with any other milk.

Agency Plan for Disposition of Request: The Board of Agriculture and Consumer Services will consider this request at its next scheduled meeting following the public comment period. This meeting will occur on July 24, 2018.

Public Comment Deadline: July 1, 2018.

Agency Contact: Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8899, or email [ryan.davis@vdacs.virginia.gov](mailto:ryan.davis@vdacs.virginia.gov).

VA.R. Doc. No. R18-34; Filed May 22, 2018, 2:03 p.m.

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# REGULATIONS

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For information concerning the different types of regulations, see the Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text.  
Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

#### Final Regulation

**REGISTRAR'S NOTICE:** The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

**Title of Regulation:** 4VAC20-950. **Pertaining to Black Sea Bass (amending 4VAC20-950-45).**

**Statutory Authority:** § 28.2-201 of the Code of Virginia.

**Effective Date:** June 1, 2018.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

#### Summary:

*The amendments establish the recreational black sea bass fishing season for 2018 as February 1 through February 28 and May 15 through December 31.*

#### 4VAC20-950-45. Recreational possession limits and seasons.

A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally licensed to fish, multiplied by 15. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

B. Possession of any quantity of black sea bass that exceeds the possession limit described in subsection A of this section shall be presumed to be for commercial purposes.

C. The open recreational fishing season shall be from February 1 through February 28, and May 15 through ~~September 21~~, and ~~October 22~~ through December 31.

D. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

E. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass from February 1 through February 28 without first having obtained a Recreational Black Sea Bass Permit from the Marine Resources Commission. It shall be unlawful for any permittee to fail to contact the Marine Resources Commission Operation Station before returning to shore at the end of the fishing trip. The permittee shall provide the operation station with his name, Marine Resources Commission identification (MRC ID) number, the point of landing, a description of the vessel, and an estimated return to shore time. Any such permittee shall submit a report for any recreational black sea bass fishing trips, which includes that permittee's MRC ID number, the date of fishing, the mode of fishing, and the number of black sea bass kept or released. That report shall be submitted to the commission or to the Standard Atlantic Fisheries Information System no later than March 15 of the current calendar year. Any authorized permittee shall allow commission staff to sample the catch to obtain biological information for scientific and management purposes only.

VA.R. Doc. No. R18-5524; Filed May 25, 2018, 9:33 a.m.

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## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### CRIMINAL JUSTICE SERVICES BOARD

#### Proposed Regulation

**REGISTRAR'S NOTICE:** The Department of Criminal Justice Services is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 26 of the Code of Virginia, which exempts the department when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102 of the Code of Virginia, provided such actions are authorized by the Governor in the interest of public safety.

**Titles of Regulations:** 6VAC20-20. **Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers (amending 6VAC20-20-10 through 6VAC20-20-40, 6VAC20-20-70, 6VAC20-20-80, 6VAC20-20-90; adding 6VAC20-20-120, 6VAC20-20-130; repealing 6VAC20-20-20, 6VAC20-20-50, 6VAC20-20-61).**

**6VAC20-50. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers** (amending 6VAC20-50-10 through 6VAC20-50-40, 6VAC20-50-70, 6VAC20-50-80, 6VAC20-50-90; adding 6VAC20-50-120, 6VAC20-50-130; repealing 6VAC20-50-50, 6VAC20-50-60).

**6VAC20-60. Rules Relating to Compulsory Minimum Training Standards for Dispatchers** (amending 6VAC20-60-10 through 6VAC20-60-40, 6VAC20-60-70, 6VAC20-60-80, 6VAC20-60-90; adding 6VAC20-60-95; repealing 6VAC20-60-50, 6VAC20-60-60).

**6VAC20-70. Rules Relating to Compulsory Minimum Training Standards for Noncustodial Employees of the Department of Corrections** (amending 6VAC20-70-10 through 6VAC20-70-40, 6VAC20-70-70, 6VAC20-70-100, 6VAC20-70-110; adding 6VAC20-70-25, 6VAC20-70-115; repealing 6VAC20-70-50, 6VAC20-70-60, 6VAC20-70-80, 6VAC20-70-90, 6VAC20-70-120, 6VAC20-70-130).

**6VAC20-90. Rules Relating to Regional Criminal Justice Training Academies** (amending 6VAC20-90-10 through 6VAC20-90-40; adding 6VAC20-90-60 through 6VAC20-90-130).

**6VAC20-100. Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions** (amending 6VAC20-100-10 through 6VAC20-100-40, 6VAC20-100-70, 6VAC20-100-80, 6VAC20-100-90; adding 6VAC20-100-25; repealing 6VAC20-100-50, 6VAC20-100-60, 6VAC20-100-100, 6VAC20-100-110).

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: August 13, 2018.

Agency Contact: Barbara Peterson-Wilson, Law Enforcement Program Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-4503, FAX (804) 786-0410, or email barbara.peterson-wilson@dcs.virginia.gov.

Summary:

*The proposed amendments to all chapters (i) separate agency responsibility and academy responsibility; (ii) codify Department of Criminal Justice Services practice and policy; (iii) clarify that training extensions will not be granted for failing to pass or meet compulsory minimum training standards and requirements; and (iv) correct and update Code of Virginia citations and address inconsistent terminology, definitions, and processes.*

*Additionally, proposed amendments to 6VAC20-90 (i) provide training academies clear instructions on the*

*requirements for certification and recertification; (ii) codify the current department policy and practice, which requires academies meet 100% of the certification standards identified in the Certified Criminal Justice Training Academy Certification Checklist and Report for initial certification and the Certified Criminal Justice Training Academy Recertification Checklist and Report for recertification; (iii) describe the process, responsibilities, and timeline for reassessment and the application of enforcement actions, including probation, suspension, and revocation, in detail; (iv) describe the appeal process, including an initial appeal to the director of the department and a second opportunity to appeal to the Executive Committee of the Criminal Justice Services Board; and (v) identify the process for creating a regional academy, those regional academies eligible to receive state funding, and the department's ability to suspend or revoke the certification of a certified training academy.*

**6VAC20-20-10. Definitions.**

The following words and terms, when used in this chapter, shall have the following ~~meaning~~ meanings unless the context clearly indicates otherwise:

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff, or agency head of a state or local law-enforcement agency.

"Approved training" means training approved by the department to meet minimum training standards.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification or recertification standards operated by the state or local ~~units~~ unit of government that is owned, leased, rented, or used exclusively for the purpose of ~~providing instruction of compulsory minimum training standards~~ training criminal justice professionals regulated by the department and board.

"Committee on Training" or "COT" means the standing committee of the board that is charged with reviewing proposed changes to the standards, receiving and reviewing public comments, and approving changes to the standards as needed.

"Compulsory minimum training standards" means the written performance outcomes approved by the Committee on Training and the minimum hours approved by the Criminal Justice Services Board.

"Curriculum Review Committee" or "CRC" means the committee consisting of nine individuals representing the certified academies. Four members of the committee shall represent regional criminal justice academies, four members of the committee shall represent independent criminal justice

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academies, and one member shall represent the Department of State Police Training Academy. The Committee on Training shall appoint members of the Curriculum Review Committee.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department or ~~his~~ the director's designee.

"Requirements" means the core elements an officer needs to accomplish to obtain law-enforcement certification.

## **6VAC20-20-20. ~~Compulsory minimum training standards. (Repealed.)~~**

~~Pursuant to the provisions of subdivision 2 of § 9-170 of the Code of Virginia, the department establishes these standards for compulsory minimum training for full time and part time law enforcement officers.~~

## **6VAC20-20-21. ~~Performance outcomes and minimum hours required~~ Compulsory minimum training standards and requirements.**

A. Pursuant to the provisions of subdivision 2 of § 9.1-102 of the Code of Virginia, the ~~department under the direction of the board~~ establishes the standards for Compulsory Minimum Training Standards for Law Enforcement Officers. The complete document may be found on the Department of Criminal Justice Services' website at <http://www.dejs.virginia.gov> ~~compulsory minimum training for full-time and part-time law-enforcement officers.~~

### ~~B. Academy training-~~

- ~~1. Category 1 Professionalism~~
- ~~2. Category 2 Legal Issues~~
- ~~3. Category 3 Communications~~
- ~~4. Category 4 Patrol~~
- ~~5. Category 5 Investigations~~
- ~~6. Category 6 Defensive Tactics/Use of Force~~
- ~~7. Category 7 Weapons Use~~
- ~~8. Category 8 Driver Training~~
- ~~9. Category 9 Physical Training (Optional)~~

~~ACADEMY TRAINING HOURS 480 (excluding Category 9)~~

### ~~C. Field training-~~

~~Category 10 Field Training~~

~~FIELD TRAINING HOURS 100~~

~~TOTAL MINIMUM TRAINING STANDARDS HOURS 580 (excluding Category 9)~~

B. An individual hired as a law-enforcement officer as defined in § 9.1-101 of the Code of Virginia shall comply with the following law-enforcement certification requirements:

1. Successfully complete law-enforcement basic training at a certified training academy, which includes receiving a minimum of 480 hours of department approved training in the following categories:

- a. Professionalism.
- b. Legal.
- c. Communication.
- d. Patrol.
- e. Investigations.
- f. Defensive tactics and use of force.
- g. Weapons, and
- h. Driver training.

2. Successfully complete a minimum of 100 hours of approved training in the category of field training by meeting or exceeding the field training performance outcomes identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.

C. Law-enforcement officers become certified upon meeting all compulsory minimum training standards and requirements that include documented completion of all performance outcomes, the law enforcement certification exam, and field training.

## **6VAC20-20-25. Approval authority.**

A. The ~~Criminal Justice Services Board~~ board shall be the approval authority for the training categories and hours of the compulsory minimum training standards identified in 6VAC20-20-21. Amendments to training categories and hours shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The Committee on Training (COT) of the ~~Criminal Justice Services Board~~ board shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes.

1. Performance outcomes, training objectives, criteria, and lesson plan guides supporting the compulsory minimum training standards may be added, deleted, or amended by the ~~Committee on Training~~ COT based ~~upon~~ on written recommendation of a chief of police, sheriff, agency administrator, academy director, Curriculum Review Committee (CRC), ~~an~~ interested party, or member of the community.

~~Any suggestions~~ 2. Suggestions received related to performance outcomes, training objectives, criteria, and lesson plan guides shall be reviewed ~~at the regularly scheduled meeting of the Curriculum Review Committee. If comment is received at any public hearing, the Committee on Training may make a decision at that time. Changes to the hours and training categories will only be made in accordance with the provisions of the Administrative Process Act by the CRC. The CRC shall present recommendations for revisions to the COT.~~

~~C. Prior to~~ Before approving changes to the performance outcomes, training objectives, criteria, or lesson plan guides, the ~~Committee on Training~~ COT shall ~~conduct a public hearing~~ schedule an opportunity for public comment during a meeting of the COT. Sixty ~~Sixty~~ A minimum of 60 days prior to before the public hearing meeting of the COT, the proposed changes shall be distributed to all ~~affected parties~~ certified training academies for the opportunity to comment. Notice of ~~change of~~ changes to the performance outcomes, training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations ~~upon adoption, change, or deletion.~~

D. The department shall notify each certified training academy in writing of any new, revised, or deleted objectives. Such adoptions, changes, or deletions shall become effective 30 days after notice of publication in the Virginia Register COT approved revisions. COT approved revisions require a minimum of 30 days' notice to certified training academies prior to becoming effective.

**6VAC20-20-30. Applicability.**

~~Every~~ A person employed as a full-time or part-time law-enforcement officer, as defined by ~~§ 9-169 (9)~~ § 9.1-101 of the Code of Virginia, ~~subsequent to~~ after July 1, 1971, shall satisfactorily complete the compulsory minimum training standards and the requirements for law-enforcement officers as identified in 6VAC20-20-21 and 6VAC20-20-40.

B. The director may grant an exemption or partial exemption from the compulsory minimum training standards and the requirements set forth in 6VAC20-20-21 to a law-enforcement officer of ~~any~~ a political subdivision of the Commonwealth who has had previous experience and training as provided in ~~§ 9-173~~ § 9.1-116 of the Code of Virginia.

~~Any~~ A person not employed as a full-time or part-time law-enforcement officer on July 1, 1971, who remains out of ~~law enforcement~~ law enforcement for more than 24 months, upon reappointment as a full-time or part-time law-enforcement officer, shall be required to comply with the compulsory minimum training standards and the requirements identified in 6VAC20-20-21 unless provided otherwise in accordance with subsection B of this section.

**6VAC20-20-40. Time requirement for completion of training.**

~~A. Every law enforcement officer who is~~ Law-enforcement officers required to comply with the ~~compulsory minimum training standards~~ requirements of 6VAC20-20-21 shall satisfactorily complete ~~such training~~ the requirements within 12 months of the date of hire or appointment as a law-enforcement officer.

B. The director, or ~~his~~ the director's designee, may grant an extension of the time limit for completion of the compulsory minimum training standards ~~under the following conditions~~ and requirements for the following reasons:

- ~~1. Illness~~ Medical condition;
2. Injury;
3. Military service; or
- ~~4. Special duty assignment required and performed in the public interest;~~
5. Administrative leave involving the determination of worker's compensation or disability retirement issues, ~~full-time educational leave~~ or suspension pending investigation or adjudication of a crime; ~~or.~~
- ~~6. Any other reason documented by the agency administrator. Such reason shall be specified and~~

~~C. The director or the director's designee may review and consider other reasons (e.g., natural disaster, family medical leave, etc.) for granting an extension. If approval is granted the extension shall not exceed 90 days.~~

D. The director shall not grant an extension for:

1. Failing to pass compulsory minimum training standards and requirements within specified time limits.
2. Failing the certification examination.

E. The agency administrator may request an extension from the director or the director's designee.

1. The request shall be in writing and include written documentation articulating the reason the individual is unable to complete the required training within the specified time limits.
2. The request shall be submitted to the department before the expiration of the specified time limits.

~~E. F.~~ F. Law-enforcement officers who do not satisfactorily complete compulsory minimum training standards and requirements within 12 months of employment hire or appointment as a law-enforcement officer, or who do not receive an extension of the time limit for completion of training the requirements, shall be subject to the provisions of § 9-184 § 9.1-115 of the Code of Virginia.

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~~G. The department shall notify the agency administrator of any officer individuals not in compliance with the requirements of this section.~~

## ~~6VAC20-20-50. Compliance with compulsory minimum training standards. (Repealed.)~~

~~A. The compulsory minimum training standards shall be accomplished by satisfactory completion of the academy training objectives and criteria at a certified training academy and the successful completion of field training objectives unless otherwise provided by 6VAC20-20-30 B.~~

~~B. Officers attending approved training are required to attend all classes and shall not be placed on duty or call except in cases of emergency.~~

## ~~6VAC20-20-61. Certified training academies. (Repealed.)~~

~~A. To become a certified academy, a state or local unit of government must demonstrate a need which contains the following elements:~~

- ~~1. The inability to obtain adequate training from existing academies or a sufficient hardship which renders the use of other existing academies impractical.~~
- ~~2. Based upon a training needs assessment, a sufficient number of officers to warrant the establishment of a full-time training function for a minimum of five years.~~

~~B. In addition, the state or local unit of government must make the following commitments:~~

- ~~1. The provision of a full range of training to include entry-level training, in service training, recertification training, specialized training and instructor certification.~~
- ~~2. The assignment of one position with primary responsibility as academy director and one clerical position to support training and training-related functions.~~
- ~~3. The maintenance of a training facility adequate to conduct training in accordance with academy certification standards.~~
- ~~4. The commitment of sufficient funding to adequately support the training function.~~

~~C. Process:~~

- ~~1. The state or local governmental unit shall submit a justification to the Committee on Training as described in subsection B of this section. The Committee on Training shall review the justification and make a recommendation to the department as to whether the establishment of an academy is warranted.~~
- ~~2. If the Committee on Training recommends the establishment of the proposed academy, the department shall make a determination as to whether the establishment of the academy is warranted.~~

~~3. If the establishment of the academy is approved by the department, the proposed academy must successfully complete the academy certification process.~~

~~D. The certified training academy shall submit to the department its curriculum and other information as designated within time limitations established by the department.~~

~~E. Each academy director shall maintain a file of all current lesson plans and supporting material for training objectives and shall provide this information to the director upon request.~~

~~F. A certified training academy is subject to inspection and review by the director or his staff.~~

~~G. The department may suspend or revoke the certification of any certified training academy upon written notice, which shall contain the reason or reasons upon which the suspension or revocation is based, to the academy's director. The academy's director may request a hearing before the director. The request shall be in writing and shall be received by the department within 15 days of the date of the notice of the suspension or revocation. The academy's director may appeal the director's decision to the board.~~

## ~~6VAC20-20-70. Grading Attendance, testing, and grading.~~

~~A. All certified training academies shall utilize testing procedures which indicate that every officer has satisfactorily completed the criteria in each training objective approved by the Committee on Training of the Criminal Justice Services Board. Attendance.~~

~~1. Officers attending approved training are required to attend all classes and shall not be placed on duty or on call except in cases of an emergency. If there is an emergency (e.g., natural disaster, catastrophic event, etc.) the agency administrator or designee shall determine if it is appropriate to place officers on duty or on call and shall advise the academy director within 24 hours.~~

~~2. Officers shall be responsible for any material missed during an excused absence.~~

~~B. Academy testing.~~

~~1. Officers shall comply with the requirements of subdivision B 1 of 6VAC20-20-21.~~

~~2. Each officer shall meet all the training objectives and pass each criteria for testing related to every performance outcome approved by the COT.~~

~~3. An officer may be tested and retested as may be necessary within the time limits of 6VAC20-20-40 and in accordance with each the certified training academy's written policy.~~

~~B. Certified training academies shall maintain accurate records of all tests, grades and testing procedures. Academy training records must be maintained in accordance with the~~

provisions of these rules and §§ 42.1-76 through 42.1-91 of the Code of Virginia.

C. Law-enforcement certification exam. Upon documented compliance with the compulsory minimum training standards identified in subdivision B 1 of 6VAC20-20-21 officers will be eligible to complete the law-enforcement certification exam.

**6VAC20-20-80. Failure to comply with rules and regulations.**

A. Any individual attending a certified training academy shall comply with the rules and regulations promulgated by the department. The academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees.

~~If the academy director considers a violation of B. Individuals violating the rules and regulations governing the certified training academy determined to be detrimental to the welfare of the certified training academy, the academy director may expel the individual or the safety of officers, visitors, or personnel may be expelled from the academy.~~

~~C. Notification of such action shall an expulsion will immediately be reported, in writing, to the agency administrator of the individual in accordance with the rules and regulations within the authority of the certified training academy and the department.~~

**6VAC20-20-90. Administrative requirements.**

~~A. Reports will be required from the agency administrator and academy director on forms approved by the department and at such times as designated by the director. Law-enforcement agencies will receive a roster containing the names of those officers who have satisfactorily completed the compulsory minimum training standards within 60 days of completion.~~

B. The law-enforcement agency shall complete the department authorized field training completion form (Form B-13) documenting the completion of field training for officers.

C. The agency administrator shall forward a properly executed field training form sign and submit the field training completion form to the department for each officer, within 12 months of employment hire or appointment.

~~C. The academy director shall, within 30 days upon completion of approved training, comply with the following:~~

- ~~1. Submit to the department a roster containing the names of those officers who have satisfactorily completed the compulsory minimum training standards.~~
- ~~2. Submit to the department the final curriculum with the training objectives, hours and instructor names listed.~~

D. The academy director shall furnish each instructor with the applicable performance outcomes, criteria and lesson plan guides for assigned subject matter. Records and documentation shall be open to audit, inspection, and review by the department upon request.

E. Training records shall be maintained in accordance with the provisions of this chapter and the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia).

**6VAC20-20-120. Certification status and in-service training.**

A. All full-time and part-time law-enforcement officers of a police department or sheriff's office that is part of or administered by the Commonwealth or any political division, law-enforcement officers as defined in § 9.1-101 of the Code of Virginia, and all jail officers as defined in § 53.1-1 of the Code of Virginia must be certified through the successful completion of training at an approved criminal justice training academy in order to remain eligible for appointment or employment.

B. Officers shall comply with in-service training and firearms training requirements identified in 6VAC20-30.

**6VAC20-20-130. Certified training academies.**

Every criminal justice agency under the purview of the department shall be a member of a certified training academy.

**NOTICE:** The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (6VAC20-20)

~~Application for Exemption From Virginia Compulsory Minimum Training Standards, Form W-2, eff. 1/91~~

~~Field Training: Law Enforcement, B-13, rev. 1/98~~

~~Criminal Justice Training Roster, Form 41, rev. 4/94~~

[Application for Exemption from Virginia Compulsory Minimum Training Standards, Form W-2, \(rev. 5/2018\)](#)

[Field Training: Law Enforcement, B-13, \(rev. 5/2018\)](#)

**DOCUMENTS INCORPORATED BY REFERENCE (6VAC20-20)**

[Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes, published September 2012, Virginia Department of Criminal Justice Services \(Revised January 2018\)](#)

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# Regulations

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## 6VAC20-50-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Academy director" means the chief administrative officer of a certified training academy.

~~"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency, or agency head of a local correctional facility as defined in § 53.1-1 of the Code of Virginia.~~

~~"Academy director" means the chief administrative officer of a certified training academy.~~

"Approved training" means training approved by the department to meet minimum training standards.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification or recertification standards operated by the state or local unit(s) unit of government that is owned, leased, rented, or used exclusively for the purpose of providing instruction of compulsory minimum training standards training criminal justice professionals regulated by the department and board.

"Committee on Training" or "COT" means the standing committee of the board that is charged with reviewing proposed changes to the standards, ~~holding public hearings receiving and reviewing public comments,~~ and approving changes to the standards as needed.

"Compulsory minimum training standards" means the written performance outcomes, training objectives, criteria for testing, and lesson plan guides approved by the Committee on Training and the minimum hours approved by the board.

"Curriculum Review Committee" or "CRC" means a committee consisting of nine individuals representing the conduct of entry-level jailor or custodial officer, courthouse and courtroom security officer, and process service officer training. The composition of the committee shall be three representatives of sheriffs' offices, three representatives of regional jails, ~~two and three~~ two and three representatives from academies, ~~and one representative of the Department of Criminal Justice Services Jails Training Unit.~~ The Committee on Training shall appoint the members of the Curriculum Review Committee.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department ~~or the director's designee.~~

~~"Full time attendance" means that officers in training shall attend all classes and shall not be placed on duty or call except in cases of emergency for the duration of the school.~~

~~"School director" means the chief administrative officer of an approved training school.~~

"Requirements" means the core elements a jail officer, deputy sheriff, court security officer, or civil process officer needs to accomplish to obtain department certification.

## 6VAC20-50-20. Compulsory minimum training standards.

A. Pursuant to the provisions of subdivisions 7, 8, and 9 of § 9.1-102 ~~and § 53.1-120~~ of the Code of Virginia, the department under the direction of the board establishes the standards for Compulsory Minimum Training Standards for full and part time Jailors or Custodial Officers, Courthouse and Courtroom Security Officers, and Process Service Officers. The complete document may be found on the Department of Criminal Justice Services' website at [www.dejs.virginia.gov](http://www.dejs.virginia.gov). compulsory minimum training standards for full-time and part-time deputy sheriffs and jail officers as defined in § 53.1-1 of the Code of Virginia; persons designated to provide courthouse and courtroom security pursuant to § 53.1-120 of the Code of Virginia; and persons designated to serve process pursuant to § 8.01-293 of the Code of Virginia.

B. ~~Academy training categories—Jailor~~ Individuals hired as deputy sheriffs or jail officers as defined in § 53.1-1 of the Code of Virginia shall meet or exceed compulsory minimum training standards at a certified training academy and complete field training requirements. Certification requires deputy sheriffs and jail officers comply with the following:

1. Successfully complete jail officer department approved training at a certified training academy in the following categories:

~~1. a. Professionalism;~~

~~2. b. Legal Issues;~~

~~3. Communications~~ c. Communication;

~~4. Operations~~ d. Jail operations;

~~5. e. Investigations;~~

~~6. f. Defensive Tactics/Use tactics and use of Force force;~~

~~7. g. Weapons Use; and~~

~~8. h. Driver Training~~ training and transportation.

2. Meet or exceed the performance outcomes in the category of field training identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.

~~C. Jailor or Custodial Officer Field Training Category 9~~

~~D. Academy training categories—Courthouse and Courtroom Security Officer.~~

Individuals hired as courthouse and courtroom security officers shall meet or exceed compulsory minimum training standards at a certified training academy and complete field training requirements. Certification requires courthouse and courtroom security officers comply with the following:

1. Successfully complete courthouse and courtroom security officers department approved training at a certified training academy in the following categories:

- ~~1. Court Security~~ a. Professionalism;
- ~~2. b. Legal Issues;~~
- ~~3. Communications~~ c. Communication;
- ~~4. d. Court Security Operations~~ security operations;
- ~~5. Court Security~~ e. Investigations;
- ~~6. f. Defensive Tactics/Use~~ tactics and use of Force force;
- ~~7. g. Weapons Use; and~~
- ~~8. Transportation~~ h. Driver training and transportation.

~~E. Courthouse and Courtroom Security Officer Field Training Category 9~~

2. Meet or exceed the performance outcomes in the category of field training identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.

D. Individuals hired as deputy sheriffs and designated to serve process shall meet or exceed compulsory minimum training standards at a certified training academy and complete field training requirements. Certification requires courthouse and courtroom security officers comply with the following:

1. Successfully complete process service officer department approved training at a certified training academy in the following categories:

~~F. Academy training categories — Process Service Officer.~~

- ~~1. Process Service Officer Operations~~ a. Professionalism;
- ~~2. b. Legal Issues;~~
- ~~3. Communications~~ c. Communication;
- ~~4. d. Civil Process Operations~~ process operations;
- ~~5. Civil Process Investigations~~
- ~~6. e. Defensive Tactics/Use~~ tactics and use of Force force;
- ~~7. f. Weapons Use; and~~
- ~~8. Transportation~~ g. Driver training.

~~G. Process Service Officer Field Training Category 9~~

2. Meet or exceed the performance outcomes in the category of field training identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.

**6VAC20-50-21. Approval authority.**

A. ~~The Criminal Justice Services Board~~ board shall be the approval authority for the training categories of the compulsory minimum training standards identified in 6VAC20-50-20. Amendments to the training categories shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. ~~The Committee on Training of the Criminal Justice Services Board~~ shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes.

1. Performance outcomes, training objectives, criteria, and lesson plan guides supporting the compulsory minimum training standards may be added, deleted, or amended by the Committee on Training COT based upon on written recommendation of a chief of police, sheriff, agency administrator, academy director, Curriculum Review Committee (CRC), interested party, or member of the community.

~~Any suggestions~~ 2. Suggestions received related to performance outcomes, training objectives, criteria, and lesson plan guides shall be reviewed at the regularly scheduled meeting of the ~~Curriculum Review Committee CRC~~. ~~If comment is received at any public hearing, the Committee on Training may make a decision at that time. Changes to the training categories will only be made in accordance with the provisions of the Administrative Process Act~~ The CRC shall present recommendations for revisions to the COT.

C. ~~Prior to~~ Before approving changes to the performance outcomes, training objectives, criteria, or lesson plan guides, the ~~Committee on Training COT~~ shall ~~conduct a public hearing~~ schedule an opportunity for public comment during a meeting of the COT. ~~Sixty~~ A minimum of 60 days prior to before the public hearing meeting of the COT, the proposed changes shall be distributed to all ~~affected parties~~ certified training academies for the opportunity to comment. Notice of ~~change of~~ changes to the performance outcomes, training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations ~~upon adoption, change, or deletion~~.

D. The department shall notify each certified training academy in writing of any new, revised, or deleted objectives. Such adoptions, changes, or deletions shall become effective 30 days after notice of publication in the Virginia Register. COT approved revisions. COT approved revisions require a

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minimum of 30 days' notice to certified training academies prior to becoming effective.

## **6VAC20-50-30. Applicability.**

A. ~~Every~~ A person employed as a ~~jailor or custodial sheriff deputy or jail officer as defined in § 53.1-1 of the Code of Virginia and~~ in accordance with subdivision 9 of § 9.1-102 of the Code of Virginia shall meet compulsory minimum training standards and requirements established in ~~subsections subsection B, C, and D of 6VAC20-50-20 and 6VAC20-50-40~~ unless provided otherwise in accordance with subsection D of this section.

B. Every person employed as a ~~Courthouse and Courtroom Security Officer~~ courthouse and courtroom security officer in accordance with subdivision 7 of § 9.1-102 of the Code of Virginia shall meet compulsory minimum training standards established in ~~subsections E and F~~ subsection C of 6VAC20-50-20 and 6VAC20-50-40 unless provided otherwise in accordance with subsection D of this section.

C. Every person employed as a ~~Deputy Sheriff Designated to Serve Process~~ deputy sheriff designated to serve process in accordance with § 15.2-1612.1 of the Code of Virginia shall meet compulsory minimum training standards established in ~~subsections G and H~~ subsection D of 6VAC20-50-20 and 6VAC20-50-40 unless provided otherwise in accordance with subsection D of this section.

D. The director may grant an exemption or partial exemption of the compulsory minimum training standards as established ~~herein in this chapter~~, in accordance with § 9.1-116 of the Code of Virginia.

E. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process who originally complied with all applicable training requirements and later separated from deputy sheriff, jail officer, courthouse and courtroom security officer, and deputy sheriff designated to serve process status in excess of 24 months, upon reentry as a deputy sheriff, jail officer, courthouse and courtroom security officer, or deputy sheriff designated to serve process will be required to complete all compulsory minimum training standards in accordance with 6VAC20-50-20 unless provided otherwise in accordance with subsection D of this section.

## **6VAC20-50-40. Time requirement for completion of training.**

A. ~~Every jailor or custodial officer, courthouse and courtroom security officer and process service officer~~ Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process who ~~is~~ are required to comply with the compulsory minimum training standards shall satisfactorily complete such training within 12 months of the date of appointment or hire as a jailor or custodial officer, courthouse and courtroom security officer or process

~~service officer~~ deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process unless provided otherwise in accordance with subsection B of this section.

B. The director ~~or director's designee~~ may grant an extension of the time limit for completion of the compulsory minimum training ~~required upon presentation of evidence by the agency administrator that such officer was unable to complete the required training within the specified time limit due to illness, injury, military service, special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime.~~ The agency administrator shall request such extension prior to expiration of any time limit.

C. ~~Any jailor or custodial officer, courthouse and courtroom security officer or process service officer who originally complied with all applicable training requirements and later separated from jailor or custodial officer, courtroom security officer, process service officer status, in excess of 24 months, upon reentry as a jailor, courthouse and courtroom security officer/process server will be required to complete all compulsory minimum training standards unless provided otherwise in accordance with 6VAC20-50-30-D.~~ standards and requirements for the following reasons:

1. Medical condition;
2. Injury;
3. Military service; or
4. Administrative leave involving the determination of worker's compensation or disability retirement issues or suspension pending investigation or adjudication of a crime.

C. The director or director's designee may review and consider other reasons (e.g., natural disaster, family medical leave, etc.) for granting an extension. If approval is granted the extension shall not exceed 90 days.

D. The director shall not grant an extension for failing to pass compulsory minimum training standards within the specified time limits.

E. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process who do not satisfactorily complete the compulsory minimum training standards and requirements within 12 months of hire or appointment as a deputy sheriff, jail officer, courthouse and courtroom security officer, or deputy sheriff designated to serve process, or who do not receive an extension of the time limit for completion of the requirements, shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

~~F. The department shall notify the agency administrator of individuals not in compliance with the requirements of this section.~~

**~~6VAC20-50-50. How compulsory minimum training may be attained. (Repealed.)~~**

~~A. The compulsory minimum training standards shall be attained by attending and satisfactorily completing performance outcomes at certified training academy and field training requirements.~~

~~B. Officers attending a certified training academy are required to attend all classes and should not be placed on duty or on call except in cases of emergency.~~

~~C. All certified training academies that begin on or after July 1, 2007, shall be conducted in conformance with the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers as amended by the board on September 14, 2006. However, the period July 1, 2007, through June 30, 2008, shall serve as a transition period wherein certified training academies may be approved by the department to conduct training according to the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers/Deputy Sheriffs Designated to Serve Process as amended by the board on April 4, 1990, or according to the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers as amended by the board on September 14, 2006.~~

**~~6VAC20-50-60. Certified training academies. (Repealed.)~~**

~~A. To become a certified academy, a state or local unit of government must demonstrate a need that contains the following elements:~~

- ~~1. The inability to obtain adequate training from existing academies or a sufficient hardship that renders the use of other existing academies impractical.~~
- ~~2. Based upon a training needs assessment, a sufficient number of officers to warrant the establishment of a full-time training function for a minimum of five years.~~

~~B. In addition, the state or local unit of government must make the following commitments:~~

- ~~1. Provide a full range of training to include entry-level training, in-service training, instructor certification and recertification training and specialized training.~~
- ~~2. Assignment of one position with primary responsibility as academy director and one clerical position to support training and training-related functions.~~
- ~~3. Maintain a training facility adequate to conduct training in accordance with academy certification standards.~~

~~4. Commitment of sufficient funding to adequately support the training function.~~

~~C. Process.~~

~~1. The state or local governmental unit shall submit a justification, as outlined in subsection B of this section, to the Committee on Training, which shall review the justification and make a recommendation to the department as to whether the establishment of an academy is warranted.~~

~~2. If the Committee on Training recommends the establishment of the proposed academy, the department shall make a determination as to whether the establishment of the academy is warranted.~~

~~3. If the establishment of the academy is approved by the department, the proposed academy must successfully complete the academy certification process and be in compliance with § 15.2-1747 of the Code of Virginia.~~

~~D. Each certified academy director shall maintain a file of all current lesson plans and supporting material for each subject contained in the compulsory minimum training standards. The certified training academy shall submit to the department its curriculum and other information as designated within time limits established by the department.~~

~~E. Certified academies that are approved shall be subject to inspection and review by the director.~~

~~F. The department may suspend or revoke the approval of a certified training school academy upon written notice to the academy's director. The notice shall contain the reason(s) upon which the suspension or revocation is based. The academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension/revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.~~

**~~6VAC20-50-70. Grading Attendance, testing, and grading.~~**

~~A. All certified training academies shall utilize testing procedures that indicate that every officer, prior to satisfactory completion of the training, has passed the criteria for testing and met the training objectives related to each performance outcome specified in the document entitled "Performance Outcomes for Compulsory Minimum Training Standards for Jailors or Custodial Officer, Courthouse and Courtroom Security Officers and Process Service Officers."~~

~~A. Attendance.~~

~~1. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process attending approved training are required to attend~~

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all classes and shall not be placed on duty or on call except in cases of emergency (e.g., natural disaster, etc.). In the event of such an emergency, the agency administrator or designee shall determine if it is appropriate to place officers on duty or on call and shall advise the academy director within 24 hours.

2. Officers shall be responsible for any material missed during an excused absence.

## B. Academy testing.

1. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process shall meet all the training objectives and pass all criteria for testing related to each performance outcome approved by the COT of the board.

2. The officer may be tested and retested as ~~may be necessary~~ within the time limits of 6VAC20-50-40 A and each certified training academy's written policy. An officer shall not be certified as having complied with the compulsory minimum training standards unless all applicable requirements have been met.

~~C. Certified training academies shall maintain accurate records of all tests, grades and testing procedures. Academy training records must be maintained in accordance with the provisions of these rules and §§ 42.1-76 through 42.1-91 of the Code of Virginia.~~

## 6VAC20-50-80. Failure to comply with rules and regulations.

~~Any individual~~ A. Individuals attending a certified training academy shall comply with the rules and regulations promulgated by the department. The academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees.

~~If the academy director considers a violation of the rules and regulations~~ B. Individuals violating the rules and regulations governing the certified training academy determined to be detrimental to the welfare of the academy, ~~the academy director may expel the officer from the academy or the safety of officers, visitors, or personnel may be expelled.~~ Notification of such action shall an expulsion will immediately be reported, in writing, to the agency administrator of the officer in accordance with rules and regulations within the authority of the certified training academy individual and the department.

## 6VAC20-50-90. Administrative requirements.

~~The academy director shall maintain a final curriculum that includes performance outcomes, hours and instructor names.~~

A. Criminal justice agencies will receive a roster containing the names of those deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process who have satisfactorily completed

the compulsory minimum training standards within 60 days of completion.

B. The agency shall complete the appropriate department authorized field training completion form (Form J-1, Form CS-1, and Form CP-1) documenting the completion of field training for officers.

C. The agency administrator shall sign and submit the field training completion form to the department for each officer within 12 months of hire or appointment.

D. Records and documentation shall be open to audit, inspection, and review by the department upon request.

E. Training records shall be maintained in accordance with the provisions of this chapter and the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia).

## 6VAC20-50-120. Certification status and in-service training.

A. Full-time and part-time law-enforcement officers of a police department or sheriff's office that is part of or administered by the Commonwealth or any political division, law-enforcement officers as defined in § 9.1-101 of the Code of Virginia, and all jail officers as defined in § 53.1-1 of the Code of Virginia must be certified through the successful completion of training at an approved criminal justice training academy in order to remain eligible for appointment or employment.

B. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process shall comply with in-service training and firearms training requirements identified in 6VAC20-30.

## 6VAC20-50-130. Certified training academies.

Every criminal justice agency under the purview of the department shall be a member or a certified training academy.

**NOTICE:** The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

### FORMS (6VAC20-50)

~~Application for Exemption from Virginia Compulsory Minimum Training Standards, Form W-2 (rev. 8/05)~~

[Application for Exemption from Virginia Compulsory Minimum Training Standards, Form W-2 \(rev. 5/2018\)](#)

[Field Training: Jail Deputy and Jail Officer, J-1, \(5/2018\)](#)

[Field Training: Court Security Officer, CS-1, \(5/2018\)](#)

[Field Training: Civil Process Officers, CP-1, \(5/2018\)](#)

DOCUMENTS INCORPORATED BY REFERENCE  
(6VAC20-50)

[Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes, published September 2012, Virginia Department of Criminal Justice Services \(Revised January 2018\)](#)

**6VAC20-60-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff, or agency head of a state or local law-enforcement agency, or non-law-enforcement head of a communications center.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification or recertification standards and operated by the state or local ~~unit(s)~~ unit of government that is owned, leased, rented, or used exclusively for the purpose of ~~providing instruction of compulsory minimum training standards~~ training criminal justice professionals regulated by department and board.

"Committee on Training" or "COT" means the standing committee of the board that is charged with reviewing proposed changes to the standards, receiving and reviewing public comments, and approving changes to the standards as needed.

"Compulsory minimum training standards" means the written performance outcomes approved by the Committee on Training and minimum hours approved by the Criminal Justice Services Board.

"Curriculum Review Committee" means the committee consisting of the following nine individuals: two members of the committee shall represent regional criminal justice academies, two members of the committee shall represent independent criminal justice academies, one member shall represent the Department of State Police Training Academy, and four experienced communications personnel shall represent emergency communication functions. The Committee on Training shall appoint members of the Curriculum Review Committee.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the ~~Department of Criminal Justice Services~~ department or the director's designee.

"Dispatcher" means any person employed by or in any local or state government agency either full time or ~~part-time~~ part time whose duties include the dispatching of law-enforcement personnel.

~~"Emergency medical dispatcher training" means training which meets or exceeds the training objectives as provided in Performance Outcome 1.6, which is set out in 6VAC20-60-100.~~

~~"Standard" means Performance Outcome, Training Objective, Criteria for Testing, and Lesson Plan Guide relating to compulsory minimum training for dispatchers and is found on the department's website.~~

~~"VCIN/NCIC training" means approved training as specified by the Virginia Department of State Police for dispatchers accessing Virginia Crime Information Network/National Crime Information Center information.~~

"Mandated training" means training that satisfies compulsory minimum training requirements (i.e., basic and in-service training).

"Satellite facility" means a temporary facility located away from the certified academy facility, which the certified academy uses exclusively to conduct in-service training.

**6VAC20-60-20. Compulsory minimum training standards.**

A. Pursuant to the provisions of subdivision 10 of § 9.1-102 (40) of the Code of Virginia, the department under the direction of the board establishes the categories of training as listed below in subsection B of this section as the compulsory minimum training standards for dispatchers; whose duties include dispatching for law enforcement.

B. Individuals hired as dispatchers shall meet or exceed the compulsory minimum training standards in the following categories at a certified training academy:

- ~~1. Category 1—Communications; Communication;~~
- ~~2. Category 2—Dispatcher Judgment; judgment;~~
- ~~3. Category 3— Legal Issues; and~~
- ~~4. Category 4— Professionalism.~~
- ~~5. Category 5— On the Job Training.~~

C. Individuals hired as dispatchers shall meet or exceed the performance outcomes in the category of on-the-job training identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.

**6VAC20-60-25. Approval authority.**

A. The ~~Criminal Justice Services Board~~ board shall be the approval authority for the training categories of the compulsory minimum training standards identified in

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6VAC20-60-20. Amendments to training categories shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The Committee on Training ~~of the Criminal Justice Services Board (COT)~~ shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes.

1. Performance outcomes, training objectives, criteria, and lesson plan guides supporting the compulsory minimum training standards may be added, deleted, or amended by the ~~Committee on Training COT~~ based upon on written recommendation of a chief of police, sheriff, agency administrator, academy director, non-law-enforcement head of a communications center, or the Curriculum Review Committee (CRC).

2. Suggestions received related to performance outcomes, training objectives, criteria, and lesson plan guides shall be reviewed by the CRC. The CRC shall present recommendations for revisions to the COT.

~~Prior to C. Before~~ approving changes to the performance outcomes, training objectives, criteria, or lesson plan guides, the ~~Committee on Training COT~~ shall ~~conduct a public hearing schedule an opportunity for public comment during a meeting of the COT. Sixty~~ A minimum of 60 days prior to before the public hearing meeting of the COT, the proposed changes shall be distributed to all ~~affected parties certified training academies~~ for the opportunity to comment. Notice of ~~change of changes to~~ the performance outcomes, training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations ~~upon adoption, change, or deletion.~~

D. The ~~department~~ Department shall notify each certified training academy in writing of any new, revised, or deleted objectives COT approved revisions. Such adoptions, changes, or deletions shall become effective 30 days after notice of publication in the Virginia Register COT approved revisions require a minimum of 30 days' notice to certified training academies prior to becoming effective.

## 6VAC20-60-30. Applicability.

A. ~~All~~ Full-time or part-time dispatchers employed by or in any local or state government agency whose duties include the dispatching of law-enforcement personnel and who were hired on or after July 1, 1988, must meet compulsory minimum training standards ~~established at the time of their appointment, and requirements as identified in 6VAC20-60-20 and 6VAC20-60-40~~ unless provided otherwise in accordance with subsection B of this ~~chapter~~ section.

B. The director may grant an exemption or partial exemption of the compulsory minimum training standards established ~~herein in this chapter,~~ in accordance with § 9.1-116 of the Code of Virginia.

C. Any dispatcher having previously and successfully completed the compulsory minimum training standards who resigns and is reappointed within 24 months from departure will not be required to complete the academy training class.

## 6VAC20-60-40. Time requirement for completion of training.

~~A. Every dispatcher who is~~ Dispatchers required to comply with the compulsory minimum training standards must satisfactorily complete the required training set forth in 6VAC20-60-20; within 24 months of the date of appointment as a dispatcher, unless provided otherwise in accordance with subsection B of this section.

B. The director may grant an extension of the time limit for completion of the compulsory minimum training standards ~~under~~ and requirements for the following conditions: reasons.

1. The chief of police, sheriff, or agency administrator shall present written notification that the dispatcher was unable to complete the required training within the specified time limit due to:

~~a. Illness~~ 1. Medical condition;

~~b. 2. Injury;~~

~~c. 3. Military service; or~~

~~d. Special duty assignment required and performed in the public interest;~~

~~e. 4. Administrative leave involving the determination of workers' compensation or disability retirement issues, or suspension pending investigation or adjudication of a crime; or~~

~~f. Any other reason documented by the agency administrator. Such reason must be specific and any C. The director or the director's designee may review and consider other reasons (e.g., natural disaster, family medical leave, etc.) for granting an extension. If approval is granted, the extension shall not exceed 90 days.~~

~~2. Any extension granted under subdivision 1 e of this subsection shall require the dispatcher to complete compulsory minimum training prior to resuming job duties. Requests may be granted for periods not to exceed 12 months.~~

D. The director shall not grant an extension for failing to pass compulsory minimum training standards and requirements within specified time limits.

E. The agency administrator may request an extension from the director or the director's designee.

1. The request shall be in writing and include written documentation articulating the reason the individual is unable to complete the required training within the specified time limits.

2. The request shall be submitted to the department before the expiration of the specified time limits.

3. Dispatchers who do not satisfactorily complete compulsory minimum training standards within 24 months of appointment as a dispatcher and who do not receive an extension of the time limit for completion of the requirements shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

3. ~~The agency administrator must request such extension prior to expiration of any time limit.~~

~~C. Any dispatcher having previously and successfully completed the compulsory minimum training standards who resigns and is reappointed within 24 months from departure will not be required to complete the academy training class.~~

**6VAC20-60-50. Compliance with compulsory minimum training standards. (Repealed.)**

~~A. The compulsory minimum training standards shall be accomplished by satisfactory completion of the academy training objectives at a certified training academy and the successful completion of on the job training objectives as provided by 6VAC20-60-30 B.~~

~~B. Dispatchers attending compulsory minimum training at a certified training academy are required to attend all classes and should not be placed on duty or call except in cases of emergency.~~

~~C. The Criminal Justice Services Board will provide a transition period for implementation of this chapter. The transition period shall begin January 1, 2002. During the transition period, certified training academies may conduct dispatcher entry-level training using the performance objectives within the "Rules Relating to Compulsory Minimum Training Standards for Dispatchers," effective January 1, 1994, or the performance outcomes and training objectives. Accordingly, any certified training academy may institute a curriculum transition by replacing existing performance objectives with the revised performance outcomes and training objectives. Effective January 1, 2003, all entry level training programs shall meet the requirements of 6VAC20-60-100.~~

**6VAC20-60-60. Approved training schools. (Repealed.)**

~~A. Dispatcher classroom training may only be provided by a certified training academy. The certified training academy shall submit to the department the curriculum and other information as designated, within time limitations established by the department.~~

~~B. Each academy director will be required to maintain a file of all current lesson plans and supporting materials for each subject contained in the compulsory minimum training standards.~~

~~C. A certified training academy is subject to inspection and review by the director or staff.~~

~~D. To become a certified academy, a state or local unit of government must demonstrate a need that contains the following elements:~~

~~1. The inability to obtain adequate training from existing academies or a sufficient hardship that renders the use of other existing academies impractical.~~

~~2. Based upon a training needs assessment, a sufficient number of officers to warrant the establishment of a full-time training function for a minimum of five years.~~

~~E. In addition, the state or local unit of government must make the following commitments:~~

~~1. The provision of a full range of training to include entry-level training and specialized training.~~

~~2. The assignment of one position with primary responsibility as academy director and one clerical position to support training and training related functions and instructor certification.~~

~~3. The maintenance of a training facility adequate to conduct training in accordance with academy certification standards.~~

~~4. The commitment of sufficient funding to adequately support the training function.~~

~~F. Process.~~

~~1. The state or local governmental unit shall submit a justification to the Committee on Training as described in subsection D of this section. The Committee on Training shall review the justification and make a recommendation to the department as to whether the establishment of an academy is warranted.~~

~~2. If the Committee on Training recommends the establishment of the proposed academy, the department shall make a determination as to whether the establishment of the academy is warranted.~~

~~3. If the establishment of the academy is approved by the department, the proposed academy must successfully complete the academy certification process.~~

~~G. The certified training academy shall submit to the department its curriculum and other information as designated within time limitations established by the department.~~

~~H. Each academy director shall maintain a file of all current lesson plans and supporting material for training objectives, and shall provide this information to the director upon request.~~

~~I. A certified training academy is subject to inspection and review by the director or his staff.~~

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~~J. The department may suspend or revoke the certification of any certified training academy upon written notice, which shall contain the reason or reasons upon which the suspension or revocation is based, to the academy's director. The academy's director may request a hearing before the director. The request shall be in writing and shall be received by the department within 15 days of the date of the notice of the suspension or revocation. The academy's director may appeal the director's decision to the board.~~

## **6VAC20-60-70. Grading Attendance, testing, and grading.**

~~A. All certified training academies shall utilize testing procedures that indicate that every dispatcher has satisfactorily completed the criteria in each training objective approved by the Committee on Training of the Criminal Justice Services Board. Attendance.~~

1. Dispatchers attending approved training are required to attend all classes and shall not be placed on duty or on call except in cases of an emergency. If there is an emergency (e.g., natural disaster, catastrophic event, etc.) the agency administrator or designee shall determine if it is appropriate to place dispatchers on duty or on call and shall advise the academy director within 24 hours.

2. Dispatchers shall be responsible for any material missed during an excused absence.

### B. Academy testing.

1. Dispatchers shall comply with the requirements of 6VAC20-60-20.

2. Each dispatcher shall meet all the training objectives and pass each criteria for testing related to every performance outcome approved by the COT.

3. A dispatcher may be tested and retested as may be necessary within the time limits of 6VAC20-60-40 and in accordance with each the certified training academy's written policy.

~~B. Certified training academies shall maintain accurate records of all tests, grades and testing procedures. Academy training records must be maintained in accordance with the provisions of this chapter and §§ 42.1 76 through 42.1 91 of the Code of Virginia.~~

~~C. Every individual attending compulsory minimum training shall satisfactorily complete each required performance outcome, training objective, and criteria, and any optional job related subject performance requirements, where applicable. Any individual who fails to satisfactorily complete any performance outcomes or objectives in any subject will be required to attend that subject in a subsequent approved dispatcher training school and satisfactorily complete the required performance objective or objectives.~~

## **6VAC20-60-80. Failure to comply with rules and regulations.**

A. Any individual attending a certified training academy shall comply with the rules and regulations promulgated by the department. The academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees.

~~If the academy director considers a violation of the rules and regulations~~ B. Individuals violating the rules and regulations governing the certified training academy determined to be detrimental to the welfare of the certified training academy, the academy director may expel the individual or the safety of dispatchers, visitors, or personnel may be expelled from the certified training academy.

~~C. Notification of such action shall~~ an expulsion will immediately be reported, in writing, to the agency administrator of the dispatcher and the director individual and the department.

## **6VAC20-60-90. Administrative requirements.**

~~A. Reports will be required from the agency administrator and academy director on forms approved or provided by the department and at such times as designated by the director. Agencies will receive a roster containing the names of those dispatchers who have satisfactorily completed the compulsory minimum training standards within 60 days of completion.~~

B. The agency shall complete the department authorized on-the-job training completion form (Form D-1) documenting the completion of on-the-job training for dispatchers.

C. The agency administrator shall, within the time requirement set forth in subsection A of 6VAC20-60-40, sign and forward a properly executed on-the-job training form to the department for each dispatcher.

~~C. The academy director shall, within 30 days upon completion of the dispatcher training:~~

~~1. Submit to the department a roster containing the names of those dispatchers who have satisfactorily completed the compulsory minimum training standards.~~

~~2. Submit to the department the final curriculum with the training objectives and instructor names listed.~~

~~D. The academy director shall furnish each instructor with the performance based training and testing objectives for the assigned subject matter.~~

~~E. Each certified training academy shall maintain accurate records of all tests, grades and testing procedures.~~

D. Records and documentation shall be open to audit, inspection, and review by the department upon request.

E. Dispatcher training records shall be maintained in accordance with the provisions of ~~these regulations this chapter and the Virginia Public Records Act §§ 42.1-67 through 42.1-91~~ (§ 42.1-76 et seq. of the Code of Virginia).

**6VAC20-60-95. Certified training academies.**

Every criminal justice agency under the purview of the department shall be a member of a certified training academy.

**NOTICE:** The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

**FORMS (6VAC20-60)**

~~Application for Exemption From Virginia Compulsory Minimum Training Standards, Form W-2, rev. 04/10.~~

~~On the Job Training Dispatchers, Form D-1, rev. 09/02.~~

[Application for Exemption from Virginia Compulsory Minimum Training Standards, Form W-2 \(rev. 5/2018\)](#)

[On the Job Training Dispatchers, Form D-1 \(rev. 5/2018\)](#)

**DOCUMENTS INCORPORATED BY REFERENCE (6VAC20-60)**

[Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes, published September 2012, Virginia Department of Criminal Justice Services \(Revised January 2018\)](#)

**6VAC20-70-10. Definitions.**

The following words and terms, when used in this chapter, shall have the following ~~meaning~~ meanings, unless the context clearly indicates otherwise:

~~"Approved training school" means a training school which provides instruction of at least the minimum training standards as mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.~~

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff, agency head of a state or local law-enforcement agency, or the director of the Department of Corrections or his designee.

"Approved training" means training approved by the department to meet minimum training standards.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification or recertification standards and operated by the state or local unit of government that is owned, leased, rented, or used exclusively for the purpose of training criminal justice professionals regulated by department and board.

"Committee on Training" or "COT" means the standing committee of the board that is charged with reviewing proposed changes to the standards, receiving and reviewing public comments, and approving changes to the standards as needed.

"Curriculum Review Committee" means the committee consisting of nine individuals representing the Department of Corrections. Two members of the committee shall represent the western region, two members shall represent the eastern region, two members shall represent the central region, and three members shall represent the Department of Corrections administration.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department or the director's designee.

"Noncustodial employee" ~~includes~~ means those employees specifically designated by the director of the Department of Corrections who, by their appointment, must carry a weapon.

~~"School director" means the chief administrative officer of an approved training school.~~

"Satellite facility" means a temporary facility located away from the certified academy facility, which the certified academy uses exclusively to conduct in-service training.

**6VAC20-70-20. Compulsory minimum training standards for noncustodial employees.**

~~Pursuant to the provisions of §§ 18.2-308 (5), 19.2-81.2, 9-170 and 53.1-29 of the Code of Virginia, the board establishes the following as the compulsory minimum training standards for noncustodial employees of the Department of Corrections:~~

	Hours
1. General	1
a. Orientation	
b. Evaluation	
2. Skills	4
a. Firearms (Four hours classroom plus range firing)	

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3. Legal Matters	3
a. Corrections and Related Law	1
b. Legal Responsibility and Authority of Employees	2
TOTAL	8 plus range

A. Pursuant to the provisions of § 9.1-102 of the Code of Virginia, the department under the direction of the board shall establish the compulsory minimum training standards for the Department of Corrections, Division of Adult Institutions. Pursuant to §§ 19.2-81.2 and 53.1-29 of the Code of Virginia noncustodial employees of the Department of Corrections who have the authority to detain an individual and noncustodial employees who have been designated to carry a weapon by the Director of the Department of Corrections shall meet or exceed the compulsory minimum training standards at a certified training academy or satellite facility.

B. Noncustodial employees shall comply with the following noncustodial employee training that includes receiving a minimum of 80 hours of department approved training in the following categories:

1. Security and supervision;
2. Communication;
3. Safety;
4. Emergency response;
5. Conflict and crisis management;
6. Law and legal;
7. Duty assignments and responsibilities;
8. Professionalism; and
9. Firearms training.

### **6VAC20-70-25. Approval authority.**

A. The board shall be the approval authority for the training categories and hours identified in 6VAC20-70-20 of the compulsory minimum training standards. Amendments to training categories shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The Committee on Training (COT) shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes. Performance outcomes, training objectives, criteria, and lesson plan guides supporting the compulsory minimum training standards may be added, deleted, or amended by the COT based upon written recommendation of the director of the Department of Corrections, a chief of

police, sheriff, agency administrator, academy director, or the Curriculum Review Committee.

C. Before approving changes to the performance outcomes, training objectives, criteria, or lesson plan guides, the COT shall schedule an opportunity for public comment during a meeting of the COT. A minimum of 60 days before to the meeting of the COT, the proposed changes shall be distributed to all certified training academies for an opportunity to comment. Notice of changes to the performance outcomes, training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations.

D. The department shall notify each certified training academy in writing of any COT approved revisions. COT approved revisions require a minimum of 30 days' notice to certified training academies prior to becoming effective.

### **6VAC20-70-30. Applicability.**

Every ~~A.~~ A person employed in a noncustodial position who by appointment to that position has been designated by the Director of the Department of Corrections to carry a weapon ~~must~~ shall meet the requirements and compulsory minimum training standards herein established in 6VAC20-70-20 and 6VAC20-70-40.

B. Noncustodial employees meeting all of the following conditions shall not be required to complete the compulsory minimum training standards:

1. The noncustodial employee was previously employed as a corrections officer;
2. The noncustodial employee originally complied with all the compulsory minimum training requirements of 6VAC20-100 (Rules Relating to compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions); and
3. At the time of appointment a period of 24 months or less has passed since the noncustodial employee served in the position of a corrections officer.

### **6VAC20-70-40. Time required for completion of training.**

A. ~~Every~~ No noncustodial employee, ~~so designated as defined in this chapter,~~ shall ~~not~~ carry a weapon until the compulsory minimum training standards as set forth in 6VAC20-70-20 have been ~~satisfactorily~~ completed.

B. Every noncustodial employee, ~~so designated as defined in this chapter,~~ shall ~~satisfactorily~~ complete the compulsory minimum training standards for noncustodial employees within ~~120 days~~ 12 months of assuming a position ~~which that~~ is designated as a noncustodial position.

C. The director may grant an extension of the time limit for completion of the compulsory minimum training standards and requirements for the following reasons:

1. Medical condition;
2. Injury;
3. Military service; or
4. Administrative leave involving the determination of worker's compensation or disability retirement issues or suspension pending investigation or adjudication of a crime.

D. The director may review and consider other reasons (e.g., natural disaster, family medical leave, etc.) for granting an extension. If approval is granted, the extension shall not exceed 90 days.

E. The director shall not grant an extension for failing to pass compulsory minimum training standards within the specified time limits.

F. Any noncustodial employee who originally complied with all training requirements and later separated from noncustodial employee or correctional officer status for a period of 24 months or less, upon reentry as a noncustodial employee, shall be required to complete compulsory in-service training and complete annual firearms training set forth in 6VAC20-70-115.

G. Any noncustodial employee who originally complied with all training requirements and later separated from noncustodial employee or corrections officer status for a period greater than 24 months, upon reentry as a noncustodial employee, shall be required to complete all compulsory minimum training standards set forth in this chapter.

**6VAC20-70-50. How compulsory minimum training standards may be attained. (Repealed.)**

A. The compulsory minimum training standards shall be attained by attending and satisfactorily completing an approved training school.

B. Noncustodial employees attending an approved training school are required to attend all classes and should not be placed on duty or on call except in cases of emergency.

**6VAC20-70-60. Approved training schools. (Repealed.)**

A. Noncustodial employees training schools must be approved by the department prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve those schools which on the basis of curricula, instructors, facilities, and examinations, provide the required minimum training. One application for all mandated training shall be submitted prior to the beginning of each fiscal year. A curriculum listing the subject matter, instructors, dates and times for the entire proposed training session shall be

submitted to the department 30 days prior to the beginning of each proposed session. An exemption to the 30 day requirement may be waived for good cause shown by the school director.

B. Each school director will be required to maintain a current file of all current lesson plans and supporting material for each subject contained in the compulsory minimum training standards.

C. Schools which are approved will be subject to inspection and review by the director or staff, or both.

D. The department may suspend the approval of an approved training school upon written notice, which shall contain the reason(s) upon which the suspension is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.

E. The department may revoke the approval of an approved training school upon written notice, which shall contain the reason(s) upon which the revocation is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.

**6VAC20-70-70. Grading Attendance, requirements, testing, and grading.**

A. All written examinations shall include a minimum of two questions for each hour of mandatory instruction. This requirement likewise includes the classroom instruction on performance oriented subject matter.

B. All noncustodial employees shall attain a minimum grade of 70% in each grading category to satisfactorily complete the compulsory minimum training standards. Any noncustodial employee who fails to attain the minimum 70% in any grading category will be required to take all subjects comprising that grading category in a subsequent approved training school.

A. Attendance.

1. Noncustodial employees attending approved training are required to attend all classes and shall not be placed on duty or on call except in cases of an emergency (e.g., natural disaster, riot, etc.). In the event of such an emergency, the agency administrator or designee shall

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determine if it is appropriate to place the noncustodial employee on duty or on call and shall advise the academy director within 24 hours.

2. Noncustodial employees shall be responsible for any material missed during an excused absence.

## B. Academy testing.

1. Noncustodial employees shall meet all the training objectives and pass all criteria for testing related to each performance outcome approved by the COT.

2. A noncustodial employee may be tested and retested as ~~may be necessary~~ within the time limits of 6VAC20-70-40 and each certified training academy's written policy. A noncustodial employee shall not be certified as having complied with the compulsory minimum training standards unless all applicable requirements have been met.

~~C. Approved noncustodial employee training schools shall maintain accurate records of all tests, grades and testing procedures. Academy training records must be maintained in accordance with the provisions of these rules and §§ 42.1-76 through 42.1-91 of the Code of Virginia.~~

## **6VAC20-70-80. Firearms. (Repealed.)**

~~The following firearms training will be applicable to noncustodial employees of the Department of Corrections who have been designated to carry a weapon:~~

~~1. Classroom — Service handgun, shotgun and special weapons (four hours).~~

~~a. Nonmenclature and Care of Weapons~~

~~b. Safety~~

~~c. Legal Aspects of Firearms Use~~

~~d. Principles of Shooting~~

~~e. Special Weapons (as utilized by the Department of Corrections) — Familiarization, no firing~~

~~2. Range.~~

~~a. Service Handgun.~~

~~(1) combat course (double action)~~

~~60 rounds~~

~~Silhouette Target~~

~~Qualification — 70% (5 points per hit on silhouette)~~

~~(Minimum 210 points out of a possible 300 points)~~

~~(2) Course.~~

~~7 yards — two handed crouch — 6 rounds (one on whistle)~~

~~7 yards — two handed crouch — 6 rounds (two on whistle)~~

~~7 yards — two handed crouch — 12 rounds (30 seconds from whistle)~~

~~15 yards — two handed point shoulder — 6 rounds (one on whistle)~~

~~15 yards — two handed point shoulder — 6 rounds (two on whistle)~~

~~15 yards — two handed point shoulder — 12 rounds (30 seconds from whistle)~~

~~25 yards — two handed point shoulder — 6 rounds (10 seconds/right hand)~~

~~25 yards — two handed point shoulder — 6 rounds (10 seconds/left hand)~~

~~b. Shotgun~~

~~10 rounds~~

~~Bobber Target~~

~~No. 4 Buck~~

~~Qualification — 80% (10 points per hit on bobber target)~~

~~25 yards — shoulder position — 10 rounds~~

## **6VAC20-70-90. Recertification. (Repealed.)**

~~A. All noncustodial employees shall recertify every other calendar year by satisfactorily completing the firearms training set forth in 6VAC20-70-80. The specific time frame for compliance by currently certified noncustodial employees is enumerated in subsections C and D. Any noncustodial employee who does not comply as set forth below in subsections C and D shall be subject to the provisions of § 9-181 of the Code of Virginia.~~

~~B. All noncustodial employees shall be required to qualify annually with service handgun and shotgun in accordance with 6VAC20-70-80.~~

~~C. All noncustodial employees whose recertification due date is in 1987 shall comply with the recertification requirements by December 31, 1987, and thereafter by December 31 of every other calendar year.~~

~~D. All noncustodial employees whose recertification due date is in 1988 shall comply with the recertification requirements by December 31, 1988, and thereafter by December 31 of every other calendar year.~~

## **6VAC20-70-100. Failure to comply with rules and regulations.**

~~A. Noncustodial employees Any individual attending an approved training school certified training academy shall comply with the rules and regulations promulgated by the department and any other rules and regulations within the authority of the school director board. The academy director of the school shall be responsible for enforcement of all rules~~

and regulations established to govern the conduct of attendees.

~~If the school director considers a violation of the rules and regulations~~ B. Any individual violating the rules and regulations governing the certified training academy determined to be detrimental to the welfare of the school, the school director may expel the noncustodial employee certified training academy or the safety of the noncustodial employees, officers, visitors, or personnel may be expelled from the school academy.

~~Consistent with Department of Corrections' policy, notification of such action shall~~ C. Notification of an expulsion will immediately be reported in writing to the supervisor of the individual expelled and the appropriate Department of Corrections Division Director agency administrator or designee and the department.

**6VAC20-70-110. Administrative requirements.**

~~A. Reports will be required from the school director on forms approved by the department and at such times as designated by the director.~~

~~B. The school director shall, within 30 days upon completion of an approved training school, comply with the following:~~

- ~~1. Submit to the department a roster containing the names of those noncustodial employees who have satisfactorily completed all training requirements and, if applicable, a revised curriculum for the training session.~~

~~C. The school director shall furnish each instructor with a complete set of course resumes and objectives for the assigned subject matter.~~

A. Records and documentation shall be open to audit, inspection, and review by the department upon request.

B. Training records shall be maintained in accordance with the provisions of this chapter and the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia).

**6VAC20-70-115. In-service training and annual firearms training.**

A. Every two years, noncustodial employees as defined in 6VAC20-70-10 shall complete a total of 40 hours of in-service training as identified in this subsection by December 31 of the second calendar year after completing approved training at a certified training academy or satellite facility.

1. Cultural diversity training for two hours.
2. Legal training for four hours.
3. Career development or elective training for 34 hours. Subjects to be provided are at the discretion of the academy director.

B. Firearms training. Every noncustodial employee required to carry a firearm in the performance of duty shall qualify annually using the applicable firearms course approved by the COT of the board. Annual range qualification shall include a review of issues and policies relating to weapons safety, nomenclature, maintenance, and use of force. With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.

**6VAC20-70-120. Effective date. (Repealed.)**

~~These rules shall be effective on and after July 1, 1987, and until amended or repealed.~~

**6VAC20-70-130. Adopted: October 12, 1979. (Repealed.)**

~~Amended: April 1, 1987.~~

**FORMS (6VAC20-70)**

~~Criminal Justice Training Roster, Form 41, eff. 1/93.~~

CHAPTER 90

RULES RELATING TO REGIONAL CRIMINAL JUSTICE TRAINING ACADEMIES

**6VAC20-90-10. Definitions.**

The following words and terms, when used in this chapter, shall have the following ~~meaning~~ meanings, unless the context clearly indicates otherwise:

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff, or agency head of a state or local law-enforcement agency.

"Approved training" means any training approved by the department to meet minimum training standards.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training facility in compliance with academy certification or recertification standards operated by the state or local unit of government that is owned, leased, rented, or used exclusively for the purpose of training criminal justice professionals regulated by the department and board.

"Committee on Training" or "COT" means the standing committee of the board that is charged with reviewing proposed changes to the standards, receiving and reviewing public comments, and approving changes to the standards as needed.

"Compulsory minimum training standards" means the written performance outcomes approved by the Committee on Training and the minimum hours approved by the Criminal Justice Services Board.

"Department" means the Department of Criminal Justice Services.

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"Director" means the chief administrative officer of the department.

"External classroom" means a training room approved by the department located away from the certified academy, which the certified academy uses to conduct mandated training, using full-time academy staff with general instructorships.

"Mandated training" means training that satisfies compulsory minimum training requirements (i.e., basic and in-service training).

"Regional Academy" means Regional Criminal Justice Training Academy.

"Satellite facility" means a temporary facility located away from the certified academy facility, which the certified academy uses exclusively to conduct in-service training.

## **6VAC20-90-20. Designation.**

A. The regional academies set forth ~~below in this subsection~~ are designated as regional academies and are eligible to receive allocated funds from the department.

Cardinal Criminal Justice Academy

~~Salem, Virginia~~

Central Shenandoah Criminal Justice Training Academy

~~Waynesboro, Virginia~~

Central Virginia Criminal Justice Academy

~~Lynchburg, Virginia~~

Crater Criminal Justice Academy

~~Petersburg, Virginia~~

Hampton Roads Regional Academy of Criminal Justice

~~Newport News, Virginia~~

New River Criminal Justice Training Academy

~~Radford, Virginia~~

Northern Virginia Criminal Justice Academy

~~Ashburn, Virginia~~

Piedmont Regional Criminal Justice Training Academy

~~Martinsville, Virginia~~

Rappahannock Regional Criminal Justice Academy

~~Fredericksburg, Virginia~~

Skyline Regional Criminal Justice Academy

~~Front Royal, Virginia~~

Southwest ~~Law Enforcement~~ Virginia Criminal Justice Academy

~~Bristol, Virginia~~

B. Jurisdictions may operate their own certified independent training academies if approved by the department; however, no state funds will be available for such academies. A jurisdiction, within or without the Commonwealth, may join a regional academy ~~at any time~~ subject to complying with the ~~policies established by the board~~ requirements of §§ 15.2-1300 and 15.2-1747 of the Code of Virginia, and this chapter.

~~C. A regional academy site may be changed by the academy governing body with the approval of the board.~~

~~D. Training, where practical, shall be conducted at designated satellite locations throughout the geographical confines of the regional academy to ensure minimum travel for student officers.~~

~~E. The board shall define geographical boundaries of designated regional academies.~~

## **6VAC20-90-30. Academy governing body.**

Each regional academy shall have a charter, which shall be established in accordance with ~~§ §§ 15.2-1300 and 15.2-1747~~ of the Code of Virginia. ~~The charter shall, in accordance with guidelines established by the board, create an academy governing body and specify the composition, authority and functions of the academy governing body and selection criteria and duties of the regional academy director.~~

## **6VAC20-90-40. Funds.**

The department will disburse funds to the regional academies designated in 6VAC20-90-20 in accordance with the appropriations made to the department for the purpose of providing financial support to the regional training academies. ~~Financial reports~~ An operating budget and independent audit by a third-party auditor will be required as determined by the department to be submitted to the department annually.

## **6VAC20-90-60. Academy creation.**

A. Conduct training needs assessment. To determine if a need exists for the creation of a certified training academy, a state or local unit of government must complete a training needs assessment. The needs assessment will evaluate the following:

1. The inability to obtain adequate training from existing academies.

2. A hardship that renders the use of other existing academies impractical.

3. The number of criminal justice professionals (i.e., students) the certified training academy would serve.

4. That there are a sufficient number of criminal justice professionals, financial resources, and academy personnel to support the creation and maintenance of a full-time

regional or independent training academy for a minimum of five years.

B. Identify and acknowledge commitments. The state or local unit of government shall in writing make the following commitments:

1. The provision of a full range of training to include basic training, in-service training, and instructor certification and recertification training.
2. The assignment of one position with primary responsibility as academy director and one clerical, financial officer, or support position to support training and training-related functions.
3. The provision of adjunct instructors to instruct classes and courses.
4. The maintenance of a training facility adequate to conduct training in accordance with academy certification standards.
5. The commitment of sufficient funding to adequately support the training function.

C. Review and consideration.

1. The state or local governmental unit shall submit a training needs assessment and written commitments to the Committee on Training (COT) as described in subsections A and B of this section.
2. The COT shall review the assessment and make a recommendation to the department as to whether the creation of an academy is warranted.
3. If the COT recommends the creation of the proposed academy, the department shall make a determination as to whether the creation of an academy is warranted.
  - a. If the creation of a regional academy is approved by the department, the governing bodies or political subdivisions of the proposed academy must successfully complete the academy certification process and be in compliance with the provisions of § 15.2-1747 of the Code of Virginia.
  - b. If the creation of an independently operated academy is approved by the department, the governing body of the proposed academy must successfully complete the academy certification process and be in compliance with the provisions of subsection D of § 15.2-1747 of the Code of Virginia.

**6VAC20-90-70. Academy certification.**

A. An academy shall not conduct mandated training until the academy meets all certification requirements.

B. Training academies, all places of operation (i.e., satellite facilities, external classrooms, firing range, driving course, etc.), and the records are subject to audit, inspection, and

review by the department. Audits and inspections may be announced or unannounced.

C. The academy must formally request academy certification status from the department and meet the following requirements:

1. The department will establish a mutually agreeable date with the academy director and conduct the on-site assessment for academy certification.
2. The academy shall meet 100% the academy certification standards identified in the DCJS Certified Criminal Justice Training Academy Certification Checklist and Report in each of the following categories:
  - a. Administration;
  - b. Personnel;
  - c. Facility;
  - d. Instruction; and
  - e. Satellite facility.

3. Certification is valid for one year from the date of certification.

- a. In order to maintain certification status, the academy must successfully complete the academy recertification process before the expiration of the original certification.
- b. The recertification will extend the expiration date to June 30 of the third year following the date of recertification.

D. If the academy does not meet one or more certification standards identified in the DCJS Certified Criminal Justice Training Academy Certification Checklist and Report:

1. The academy director will receive written notification of the certification standards that have not been met and the date when a reassessment will be conducted.
2. The department shall provide the written notification and date of reassessment within five business days of the last date of assessment.
3. The academy will be given time to correct the situation, not to exceed 60 days.
4. Department staff shall reassess the academy. If the academy does not meet one or more of the certification standards upon reassessment, the department will provide written notification of the standards not met during reassessment to the academy director and agency administrator or board chairman of the academy. The academy will have a maximum of 30 days to comply with all certification standards.
5. A second reassessment will be conducted no later than 30 days following the first reassessment. If the academy is still not in compliance with all certification standards at the

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time of the second reassessment, the department shall not certify the academy.

6. The academy director may appeal the findings of the academy certification to the director. The decision of the director is final.

E. Academies failing to meet the certification requirements or losing on appeal shall restart the academy certification process identified within this section beginning with 6VAC20-90-70 C.

## **6VAC20-90-80. Academy recertification.**

A. A certified training academy shall not conduct mandated training for courses in which it is not in compliance with regulatory and certification requirements.

B. A certified training academy, all places of operation (i.e., satellite facilities, firing range, driving course, etc.), and the records are subject to audit, inspection, and review by the department. Audits and inspections may be announced and unannounced.

C. The certified training academy must successfully complete the academy recertification process before June 30 of the third year from the last date of recertification.

D. The department will establish a mutually agreeable date with the academy director and conduct the on-site assessment for academy recertification.

1. The certified training academy shall meet 100% of the academy certification standards identified in the DCJS Certified Criminal Justice Training Academy Recertification Checklist and Report in each of the following categories:

a. Administration;

b. Personnel;

c. Facility;

d. Instruction; and

e. Satellite facility.

2. If the certified training academy does not meet one or more recertification standards identified in the DCJS Certified Criminal Justice Training Academy Recertification Checklist and Report:

a. The academy director will receive written notification of the recertification standards that have not been met along with a department drafted corrective action plan and the date when a reassessment will be conducted within five business days from the last date of assessment.

b. The certified training academy will be given time to correct the situation, not to exceed 60 days.

c. The department staff shall reassess the certified training academy. If the certified training academy does not meet one or more of the certification standards upon reassessment, the department will provide written notification of the standards not met during reassessment to the academy director and agency administrator, or board chairman of the certified training academy. The certified training academy will have a maximum of 30 days to comply with all certification standards.

d. A second reassessment will be conducted no later than 30 days following the first reassessment. If the certified training academy is still not in compliance with all certification standards at the time of the second reassessment, the director shall suspend the academies certification in accordance with 6VAC20-90-100 and conduct a hearing within 30 days to determine the status of the academy's certification.

E. The director shall review all pertinent documents.

1. The academy will have an opportunity to make a verbal presentation.

2. After a review of all pertinent information, the director shall determine the status of the academy certification.

F. The academy director may seek appeal to the enforcement actions identified in 6VAC20-90-100 of the academy recertification assessment.

1. The academy director may request a hearing before Executive Committee of the Criminal Justice Services Board. The request shall be in writing and shall be received by the department within 15 days of the date of the notice of probation, suspension, or revocation.

2. The academy will have an opportunity to make a verbal presentation before the executive committee.

3. After a review of all pertinent information, the executive committee shall determine the status of the certification.

## **6VAC20-90-90. Training requirements, approvals, audits, inspections, and reviews.**

A. The certified training academy shall conduct mandated (e.g., basic) training using the Virginia Criminal Justice Services Training Manual and Compulsory Minimum Training Standards for:

1. Law enforcement officers in accordance with the requirements of 6VAC20-20-21 B 1.

2. Deputy sheriffs and jail officers in accordance with the requirements of 6VAC20-50-20 B 1.

3. Courthouse and courtroom security officers in accordance with the requirements of 6VAC20-50-20 C 1.

4. Deputy sheriffs designated to serve process in accordance with the requirements of 6VAC20-50-20 D 1.

5. Dispatchers in accordance with the requirements of 6VAC20-60-20 B.

6. Noncustodial employees of the Department of Corrections designated by the Director of the Department of Corrections to carry a weapon in accordance with the requirements of 6VAC20-70-20.

7. Correctional officers of the Department of Corrections in accordance with the requirements of 6VAC20-100-20 B 1.

B. The certified training academy shall submit to the department its curriculum containing the performance outcomes, instructor names, and the dates and times for all basic training, including all instructor schools and field training officer schools, and a letter requesting approval (e.g., memorandum of transmittal) at least 30 days before the start of the course.

C. The department shall review the documents submitted, and if approved, the department shall notify the certified training academy in writing of course approval.

D. The certified training academy shall approve in-service training in accordance with the requirements identified in 6VAC20-30.

E. The department shall conduct training audits, inspections, and review.

### **6VAC20-90-100. Enforcement actions for recertification.**

A. The department shall use the enforcement actions provided in this subsection when identifying noncompliance of this chapter that varies from the intent of this chapter by academies and certified academies.

1. Probation is a written notification for violations of department rules or regulations requiring continuous oversight by the department for a specific duration of time.

2. Suspension is a written notification of the removal of authorization to conduct, instruct, or hold specified courses or schools for violations of this chapter for a specific duration of time.

3. Revocation is a written notification by the director of the deactivation and removal of authorization issued under certification to operate as a certified training academy for violations of this chapter for an indefinite period of time.

B. The enforcement actions and procedures provided in this subsection are not mutually exclusive. The department may invoke as many enforcement actions as the situation requires.

1. The department may consider probation, suspension, or revocation status for a certified training academy with documented noncompliance for one or more academy recertification standards when the certified training academy has failed to correct the noncompliance in

accordance with the recertification process and timeline identified in 6VAC20-90-80.

2. If there is a life, health, or safety issue or felonious criminal activity occurring during any department or academy approved training, at any location, the director may unilaterally revoke the academy's certification. The status of the revocation shall be reviewed at the next scheduled Criminal Justice Services Board meeting.

### **6VAC20-90-110. Enforcement actions for instruction and training.**

A. The department shall use the enforcement actions provided in this subsection when identifying noncompliance of this chapter by certified training academies.

1. Probation is a written notification for violations of department rules or regulations requiring continuous oversight by the department for a specific course or class.

2. Suspension is a written notification of the removal of authorization to conduct, instruct, or hold specified courses or schools for violations of this chapter.

B. The department may conduct training audits inspections and reviews and immediately suspend a class, course, or training if there is a violation of academy certification or recertification standard or requirements or if there is a life, health, or safety issue or felonious criminal activity occurring at an academy or a satellite facility. The suspension shall remain in place until the noncompliance is corrected.

C. The department may assign probation status to a certified training academy's course or class. This allows a certified academy to conduct a class with oversight from the department.

D. Probation and suspension status shall be reviewed by the department upon compliance with all requirements.

### **6VAC20-90-120. Attendance, testing, grading, and recordkeeping.**

A. The certified training academy shall establish, maintain, and follow a policy that requires criminal justice professionals to attend all classes except in emergency situations (i.e., natural disaster, catastrophic event, etc.) and notify criminal justice professionals of their responsibility for any material missed during an excused absence per academy policy.

B. The certified training academy shall utilize testing procedures that indicate that every criminal justice professional has satisfactorily completed the criteria for every training objective and performance outcome approved by the Committee on Training of the Criminal Justice Services Board and located in the Virginia Criminal Justice Services Training Manual and Compulsory Minimum Training Standards.

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C. A criminal justice officer may be tested and retested as may be necessary within the time limits of 6VAC20-20-40, 6VAC20-50-40, 6VAC20-60-40, 6VAC20-70-40, or 6VAC20-100-40 and in accordance with each certified training academy's written policy.

D. Law-enforcement certification exam.

1. The department shall generate and proctor the law-enforcement certification exam.

2. All certified training academies shall document that each law-enforcement officer has complied with all minimum training standards in all categories identified in 6VAC20-20-21 before scheduling the law-enforcement certification exam.

3. Upon documented compliance with the minimum training standards identified in 6VAC20-20-21 officers will be eligible to complete the law-enforcement certification exam.

E. The academy director shall certify criminal justice professional have complied with the applicable rules relating to the compulsory minimum training standards and requirements. The academy director shall submit the following information using the department's electronic training records management system within 60 days of the last day of completing the compulsory minimum training or in-service training.

1. Name of certified training academy and academy director's name;

2. Start and end dates of training;

3. Name and type of course;

4. Social security number of criminal justice professionals;

5. Last name, first name, and middle initial of criminal justice professionals;

6. Name of criminal justice professional's employing agency; and

7. Academy director's signature and date.

F. Certified training academies shall maintain accurate records of all tests, grades, and testing procedures.

G. The certified training academy director shall maintain a file of all current lesson plans and supporting material for training objectives and shall provide this information to the director upon request.

H. The certified training academy shall maintain training records in accordance with the provisions of this chapter and the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia).

## **6VAC20-90-130. Failure to comply with rules and regulations.**

A. The academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees.

B. Any individual attending a certified training academy shall comply with the rules and regulations promulgated by the certified training academy and the department.

C. Individuals violating the rules and regulations governing the certified training academy or violating the rules of the certified training academy determined to be detrimental to the welfare of the academy or the safety of officers, visitors, or personnel may be expelled.

D. Notification of expulsion will immediately be reported in writing to the agency administrator of the individual and the department.

## **DOCUMENTS INCORPORATED BY REFERENCE (6VAC20-90)**

[DCJS Certified Criminal Justice Training Academy Certification Checklist and Report, May 2018, Virginia Department of Criminal Justice Services](#)

[DCJS Certified Criminal Justice Training Academy Recertification Checklist and Report, May 2018, Virginia Department of Criminal Justice Services](#)

[Satellite Facility Worksheet, May 2018, Virginia Department of Criminal Justice Services](#)

[Virginia Criminal Justice Services Training Manual and Compulsory Minimum Training Standards, published online September 2012, \(Revised March 2018\) available on the Virginia Department of Criminal Justice Services website at <https://www.dcjs.virginia.gov/law-enforcement/manual>](#)

## **6VAC20-100-10. Definitions.**

The following words and terms, when used in this chapter, shall have the following ~~meaning~~ meanings, unless the context clearly indicates otherwise:

"Academy director" means the chief administrative officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff or agency head of a state, or local law-enforcement agency, or the director of the Department of Corrections, or his designee.

~~"Approved training school" means a training school which provides instruction of at least the minimum training standards as mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.~~

"Approved training" means training approved by the department to meet minimum training standards.

"Board" means the Criminal Justice Services Board.

~~"Corrections facility director/manager" means the chief administrative officer of a correctional facility.~~

"Certified training academy" means a training facility in compliance with academy certification or recertification standards and operated by the state or local unit of government that is owned, leased, rented, or used exclusively for the purpose training criminal justice professionals regulated by department and board.

"Committee on Training" or "COT" means the standing committee of the board that is charged with reviewing proposed changes to the standards, receiving and reviewing public comments, and approving changes to the standards as needed.

"Curriculum Review Committee" means the committee consisting of nine individuals representing the Department of Corrections. Two members of the committee shall represent the western region, two members shall represent the eastern region, two members shall represent the central region, and three members shall represent administration.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department or the director's designee.

~~"Full time attendance" means that officers in training shall attend all classes and shall not be placed on duty or call except in cases of emergency for the duration of the school.~~

"Satellite facility" means a temporary facility located away from the certified training academy facility, which the certified academy uses exclusively to conduct in-service training.

~~"School director" means the chief administrative officer of an approved training school.~~

**6VAC20-100-20. Compulsory minimum training standards.**

A. Pursuant to the provisions of § 9-170.7 of the subdivision 9 of § 9.1-102 of the Code of Virginia, the department under the direction of the board establishes the following as the compulsory minimum training standards for full-time or part-time correctional officers of the Department of Corrections, Division of Adult Institutions.

~~The performance objectives constituting the institutional and academy for staff development core and sub-core curricula is detailed in the document entitled, "Performance Based Training and Testing Objectives for Compulsory Minimum Training for Correctional Officers of the Department of Corrections, Division of Adult Institutions" (June, 1986), which is incorporated by reference and made a part of these regulations.~~

~~A. Basic correctional officer training—institutional training.~~

~~1. Core curriculum.~~

~~4.0. Key Control~~

~~5.0. Tool Control~~

~~6.0. Control/Account for Inmates~~

~~10.0. Search Procedures—Persons~~

~~11.0. Search Procedures—Objects~~

~~12.0. Search Procedures—Vehicles~~

~~13.0. Search Procedures—Areas~~

~~14.0. Control of Movement In and Out of Facility—Perimeter~~

~~15.0. Control of Movement In and Out of Tower~~

~~16.0. Control of Movement In and Out of Sally Port~~

~~17.0. Control of Movement In and Out of Visiting Room~~

~~18.0. Control of Movement In and Out of Gates~~

~~19.0. Radio/Telephone Communications~~

~~20.0. Control of Movement—Control Room~~

~~21.0. Control of Movement—Master Control~~

~~22.0. Maintaining Effective Security Equipment~~

~~23.0. Control of Contraband~~

~~24.0. Control of Movement Using Restraints~~

~~24.1. Identification of Restraints~~

~~24.2. Use of Restraints~~

~~25.0. Control of Inmate Movement—Internal~~

~~26.0. Transportation and Escorting~~

~~32.0. Communication of Critical Information to Correctional Officers~~

~~33.0. Communication of Critical Information to Supervisors~~

~~34.0. Enforcing Laws, Rules and Regulations~~

~~35.0. Enforcing Laws, Rules and Regulations—Behavior Adjustment~~

~~36.0. Enforcing Laws, Rules and Regulations—Adjustment Committee~~

~~37.0. Enforcing Laws, Rules—ICC~~

~~43.0. Use of Force—Firearms~~

~~44.0. Emergency Preparedness and Response—Riot or Disturbance~~

~~45.0. Emergency Preparedness and Response~~

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46.0. Emergency Preparedness and Response—Hostage  
47.0. Emergency Preparedness and Response—Minor Disturbance  
48.0. Emergency Preparedness and Response—First Aid  
50.0. Inmate Supervision—Providing Information  
52.0. Inmate Supervision—Work/Recreation  
53.0. Inmate Welfare—Receiving  
54.0. Inmate Welfare—Medical Care  
55.0. Inmate Welfare—Mail  
56.0. Inmate Welfare—Personal Property  
57.0. Inmate Welfare—Housekeeping/Laundry  
.....TOTAL—INSTITUTIONAL—CURRICULUM HOURS—80

B. Basic correctional officer training—academy for staff development.

1. Core curriculum.

1.0. Role of the Correctional System  
2.0. Corrections Within the Criminal Justice System  
3.0. Corrections As a Profession  
7.0. Law Enforcement Techniques  
8.0. Secure and Safeguard of Crime Scene  
9.0. Testifying  
10.0. Search Procedures—Persons  
23.0. Control of Contraband  
23.1. Control of Drug Use  
23.2. Identification of Controlled/Abused Substance  
23.3. Identification of Materials Used to Achieve Intoxication  
23.4. Identification of Materials Used to Make Weapons  
23.5. Procedure for Handling Contraband  
24.0. Control of Movement Using Restraints  
24.1. Identification of Restraints  
24.2. Use of Restraints  
28.0. Crisis Prevention/Inmate  
29.0. Crisis Prevention/I.D. of Potential Problems  
30.0. Crisis Prevention/I.D. of Mentally Disturbed Inmates  
31.0. Conflict Management/Crisis Intervention

34.0. Enforcing Laws, Rules and Regulations  
35.0. Enforcing Laws, Rules and Regulations—Behavior Adjustment  
38.0. Enforcing Laws, Rules—Grievance  
39.0. Use of Force  
40.0. Use of Force—Defensive Tactics  
41.0. Use of Force—Baton  
42.0. Use of Force—Chemical Agents  
43.0. Use of Force—Firearms  
44.0. Emergency Preparedness and Response—Riot or Disturbance  
45.0. Emergency Preparedness and Response  
46.0. Emergency Preparedness and Response—Hostage  
49.0. Inmate Supervision—Interpersonal Communications  
50.0. Inmate Supervision—Providing Information  
51.0. Inmate Supervision—Limitations  
52.0. Inmate Supervision—Work/Recreation  
.....TOTAL CORE CURRICULUM HOURS—120  
2. Sub core curriculum (required for all correctional officers who, in the performance of duties, are required to transport inmates by vehicular means).  
27.0. Vehicle Operation.  
..... TOTAL SUB-CORE CURRICULUM HOURS—16  
..... TOTAL CURRICULUM HOURS—216

B. Individuals hired as correctional officers as defined in § 53.1-1 of the Code of Virginia shall meet or exceed the compulsory minimum training standards at a certified training academy and complete field training requirements. Correctional officers shall comply with the following:

1. Successfully complete basic correctional officer training at a certified training academy or satellite facility, which includes receiving a minimum of 400 hours of department approved training in the following categories:

- a. Security and supervision;
- b. Communication;
- c. Safety;
- d. Emergency response;
- e. Conflict and crisis management;
- f. Law and legal;
- g. Duty assignments and responsibilities;

- h. Professionalism;
- i. Basic corrections officer firearms training; and
- j. Physical fitness training.

2. Successfully complete a minimum of 200 hours of approved training in the category of field training identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.

**6VAC20-100-25. Approval authority.**

A. The board shall be the approval authority for the training categories and hours identified in 6VAC20-100-20 of the compulsory minimum training standards. Amendments to training categories shall be made in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

B. The Committee on Training (COT) shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes. Performance outcomes, training objectives, criteria, and lesson plan guides supporting the compulsory minimum training standards may be added, deleted, or amended by the COT based upon written recommendation of the director of the Department of Corrections, a chief of police, sheriff, agency administrator, academy director, or the Curriculum Review Committee.

C. Before approving changes to the performance outcomes, training objectives, criteria, or lesson plan guides, the COT shall schedule an opportunity for public comment during a meeting of the COT. A minimum of 60 days before to the meeting of the COT, the proposed changes shall be distributed to all certified training academies for an opportunity to comment. Notice of changes to the performance outcomes, training objectives, criteria, and lesson plan guides shall be filed for publication in the Virginia Register of Regulations.

D. The department shall notify each certified training academy in writing of any COT approved revisions. COT approved revisions require a minimum of 30 days' notice to certified training academies prior to becoming effective.

**6VAC20-100-30. Applicability.**

A. ~~Every~~ <sup>A</sup> person employed as a full-time or part-time correctional officer, and who has not met the compulsory minimum training standards for correctional officers subsequent to the effective date of these regulations, in accordance with subdivision 9 of § 9.1-102 of the Code of Virginia, shall meet the compulsory minimum training standards herein and requirements established in 6VAC20-100-20 and 6VAC20-100-40 unless provided otherwise in accordance with subsection B of this section.

B. The director may grant an exemption or partial exemption of the compulsory minimum training standards established herein, in accordance with ~~§ 9-173~~ § 9.1-116 of the Code of Virginia.

**6VAC20-100-40. Time requirement for completion of training.**

A. ~~Every correctional officer~~ <sup>Correctional officers</sup> who is are required to comply with the compulsory minimum training standards shall satisfactorily complete such training within 12 months of the date of appointment unless provided otherwise in accordance with subsection B of this section.

B. The director may grant an extension of the time limit for completion of the compulsory minimum training ~~required upon presentation of evidence by the agency administrator that the officer was unable to complete the required training within the specified time limit due to illness, injury, military service or special duty assignment required and performed in the public interest. However, each agency administrator shall request such extension prior to expiration of any time limit.~~ standards and requirements for the following reasons:

- 1. Medical condition;
- 2. Injury;
- 3. Military service; or
- 4. Administrative leave involving the determination of worker's compensation or disability retirement issues or suspension pending investigation or adjudication of a crime.

C. ~~Any correctional officer~~ <sup>The director may review and consider other reasons (e.g., natural disaster, family medical leave, etc.) for granting an extension. If approval is granted, the extension shall not exceed 90 days.</sup>

D. The director shall not grant an extension for failing to pass compulsory minimum training standards within the specified time limits.

E. Correctional officers who do not receive an extension of the time limit for completion of requirements shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

F. The department shall notify the agency administrator of individuals not in compliance with the requirements of this section.

G. Correctional officers who originally complied with all training requirements and later separated from correctional officer status, ~~more than 12 months but less than for a period of 24 months or less,~~ upon reentry as a correctional officer, will be required to complete ~~all compulsory minimum training standards set forth in 6VAC20-100-20 A-1 in-service and firearms training requirements set forth in 6VAC20-30.~~

~~D. Any correctional officer~~ <sup>H. Correctional officers</sup> who originally complied with all training requirements and later

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separated from correctional officer status, ~~in excess of for a period greater than 24 months, upon reentry as a correctional officer shall be required to complete all compulsory minimum training standards unless provided otherwise in accordance with 6VAC20-100-20 A-1 required for correctional officers as set forth in this chapter.~~

## **6VAC20-100-50. How minimum training may be attained. (Repealed.)**

~~A. The compulsory minimum training standards shall be attained by attending and satisfactorily completing an approved training school.~~

~~B. Officers attending an approved training school are required to be present for all classes and should not be placed on duty or on call except in cases of emergency. In the event of such an emergency, the agency administrator shall advise the school director within 24 hours. Officers will be responsible for any material missed during an excused absence.~~

~~C. All approved training schools which begin on or after January 1, 1989, shall be conducted in conformance with the Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions, as adopted by the board on October 7, 1987. However, the period January 1, 1988, through December 31, 1988, shall serve as a transition period wherein training schools may be approved by the department to conduct training in accordance with the Rules Relating to Compulsory Minimum Training Standards For Correctional Officers of the Department of Corrections, Division of Institutional Services, as amended by the board on February 12, 1982, or according to the Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions, as adopted by the board on October 7, 1987. Every correctional officer satisfactorily completing training approved by the department under the rules amended February 12, 1982, or under the rules adopted on October 7, 1987, shall be deemed to have complied with the compulsory minimum training standards for correctional officers.~~

## **6VAC20-100-60. Approved training schools. (Repealed.)**

~~A. Correctional officer training schools shall be approved by the department prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve those schools, which, on the basis of curricula, instructors, facilities and examinations provide the required minimum training. One application for all mandated training shall be submitted prior to the beginning of each fiscal year. A curriculum listing performance objective by number, the instructors, dates, and times for the entire proposed session shall be submitted to the department 30 days prior to the beginning of each such~~

~~proposed session. An exemption to the 30-day requirement may be granted for good cause shown by the school director.~~

~~B. Each school director shall be required to maintain a file of all lesson plans and supporting material for each subject contained in the compulsory minimum training standards.~~

~~C. Schools which are approved shall be subject to inspection and review by the director or staff.~~

~~D. The department may suspend the approval of an approved training school upon written notice, which shall contain the reason(s) upon which the suspension is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.~~

~~E. The department may revoke the approval of an approved training school upon written notice, which shall contain the reason(s) upon which the revocation is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.~~

## **6VAC20-100-70. Grading Attendance, requirements, testing, and grading.**

~~A. Each officer shall comply with the requirements of all the performance objectives set forth in 6VAC20-100-20 and the document entitled, "Performance Based Training and Testing Objectives for Compulsory Minimum Training for Correctional Officers of the State Department of Corrections, Division of Adult Institutions" (June, 1986). All approved training schools shall utilize testing procedures which indicate that every officer, prior to satisfactory completion of the training school, has met the requirements set forth in each performance objective specified in the document entitled, "Performance Based Training and Testing Objectives for Compulsory Minimum Training for Correctional Officers of the State Department of Corrections, Division of Adult Institutions" (June, 1986). An~~

~~B. The school director shall submit a grade report on each officer on forms provided by the department.~~

~~C. The following firearms training will be required for each officer attending an approved school:~~

- ~~1. Nomenclature and care of service revolver;~~

- 2. Safety (on the firearms range, on duty and off duty);
- 3. Legal responsibilities and liabilities of firearms;
- 4. Service revolver (handling, firing principles);
- 5. Dry firing and application of basic shooting principles;
- 6. Prequalification shooting (60 rounds, minimum);
- 7. ~~Basic Correctional Firearms Qualification Course — Minimum 70% qualification required~~
- 8. ~~Shotgun Qualification Course — Minimum 80% qualification required~~
- 9. ~~Special Weapons Qualification Courses — Minimum 80% qualification required~~
  - a. ~~.223 caliber mini 14 rifle~~
  - b. ~~AR 15 semi-automatic rifle~~

**A. Attendance.**

- 1. Correctional officers attending approved training are required to attend all classes and shall not be placed on duty or on call except in cases of an emergency (e.g., natural disaster, etc.) In the event of such an emergency, the agency administrator or designee shall determine if it is appropriate to place officers on duty or on call and shall advise the academy director within 24 hours.
- 2. Correctional officers shall be responsible for any material missed during an excused absence.

**B. Academy testing.**

- 1. Correctional officers shall meet all the training objectives and pass all criteria for testing related to each performance outcome approved by the COT.
- 2. A correctional officer may be tested and retested ~~as may be necessary~~ within the time limits of 6VAC20-100-40 and in accordance with each certified training academy's written policy. An officer shall not be certified as having complied with the compulsory minimum training standards unless all ~~applicable~~ requirements have been met.

**6VAC20-100-80. Failure to comply with rules and regulations.**

~~Any correctional officer attending an approved training school~~ A. Any individual attending a certified training academy shall comply with the rules and regulations promulgated by the department and board and any other rules and regulations within the authority of the school director. The school academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees.

~~If the school director considers a violation of B. Any individual violating the rules and regulations governing the certified training academy determined to be detrimental to the~~

~~welfare of the school, the school director~~ the certified training academy or the safety of officers, visitors, or personnel may ~~expel the officer~~ be expelled from the school academy.

~~C. Notification of such action shall~~ an expulsion will immediately be reported, in writing, to the ~~corrections facility director manager of the officer and the director~~ agency administrator or designee and the department.

**6VAC20-100-90. Administrative requirements.**

~~A. Reports shall be required from the agency administrator and school director on forms approved or provided by the department and at such times as designated by the director.~~

~~B. The school director shall, within 30 days upon completion of an approved training school session, comply with the following:~~

- 1. ~~Prepare a grade report on each officer maintaining the original for academy records and forwarding a copy to the corrections facility director/manager of the officer.~~
- 2. ~~Submit to the department a roster containing the names of those officers who have satisfactorily completed all training requirements and, if applicable, a revised curriculum for the training session.~~

~~C. The school director shall furnish each instructor with the applicable performance objectives for the assigned subject matter.~~

~~D. Approved correctional officer training schools shall maintain accurate records of all tests, grades and testing procedures.~~

A. Records and documentation shall be open to audit, inspection, and review by the department upon request.

B. Training school records shall be maintained in accordance with the provisions of these rules this chapter and §§ the Virginia Public Records Act (§ 42.1-76 through 42.1-94 et seq. of the Code of Virginia).

**6VAC20-100-100. Effective date. (Repealed.)**

~~These regulations shall be effective on and after January 1, 1988, and until amended or repealed.~~

**6VAC20-100-110. Recision of previous rules. (Repealed.)**

~~The Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Institutional Services, as amended on February 12, 1982, are hereby rescinded effective January 1, 1989.~~

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The form is also available from the

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agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

## FORMS (6VAC20-100)

~~Application for Exemption From Virginia Compulsory Minimum Training Standards, Form W 2, eff. 1/91.~~

~~Criminal Justice Training Roster, Form 41, eff. 1/93.~~

[Application for Exemption from Virginia Compulsory Minimum Training Standards, Form W-2 \(rev. 5/2018\)](#)

## DOCUMENTS INCORPORATED BY REFERENCE (6VAC20-100)

[Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes, published September 2012, Virginia Department of Criminal Justice Services \(Revised January 2018\)](#)

VA.R. Doc. No. R18-5427; Filed May 23, 2018, 3:08 p.m.

### Withdrawal of Proposed Regulation

**Title of Regulation:** 6VAC20-60. Rules Relating to Compulsory Minimum Training Standards for Dispatchers (amending 6VAC20-60-10 through 6VAC20-60-90).

**Statutory Authority:** § 9.1-102 of the Code of Virginia.

Notice is hereby given that the Criminal Justice Services Board has WITHDRAWN the proposed regulatory action for **6VAC20-60, Rules Relating to Compulsory Minimum Training Standards for Dispatchers**, which was published in [33:20 VA.R. 2183-2189 May 29, 2017](#). A new action will be initiated that will separate the responsibilities of the dispatcher and the agency from the responsibilities of the academy.

**Agency Contact:** Barbara Peterson-Wilson, Law Enforcement Program Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-4503, FAX (804) 786-0410, or email [barbara.peterson-wilson@dcjs.virginia.gov](mailto:barbara.peterson-wilson@dcjs.virginia.gov).

VA.R. Doc. No. R16-4634; Filed May 14, 2018, 1:51 p.m.

### Withdrawal of Proposed Regulation

**Title of Regulation:** 6VAC20-70. Rules Relating to Compulsory Minimum Training Standards for Noncustodial Employees of the Department of Corrections (amending 6VAC20-70-10 through 6VAC20-70-70, 6VAC20-70-100, 6VAC20-70-110; adding 6VAC20-70-25, 6VAC20-70-115; repealing 6VAC20-70-80, 6VAC20-70-90, 6VAC20-70-120, 6VAC20-70-130).

**Statutory Authority:** § 9.1-102 of the Code of Virginia.

Notice is hereby given that the Department of Criminal Justice Services has WITHDRAWN the proposed regulatory

action for **6VAC20-70, Rules Relating to Compulsory Minimum Training Standards for Noncustodial Employees of the Department of Corrections**, which was published in [33:22 VA.R. 2424-2430 June 26, 2017](#). A new action will be initiated that will separate the responsibilities of the noncustodial employee and the agency from the responsibilities of the academy.

**Agency Contact:** Barbara Peterson-Wilson, Law Enforcement Program Coordinator, Department of Criminal Justice Services, 1100 Bank Street 12th Floor, Richmond, VA 23219, telephone (804) 225-4503, FAX (804) 786-0410, or email [barbara.peterson-wilson@dcjs.virginia.gov](mailto:barbara.peterson-wilson@dcjs.virginia.gov).

VA.R. Doc. No. R16-4542; Filed May 14, 2018, 1:53 p.m.

### Withdrawal of Proposed Regulation

**Title of Regulation:** 6VAC20-100. Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions (amending 6VAC20-100-10 through 6VAC20-100-90; adding 6VAC20-100-25, 6VAC20-100-95; repealing 6VAC20-100-100, 6VAC20-100-110).

**Statutory Authority:** § 9.1-102 of the Code of Virginia.

Notice is hereby given that the Criminal Justice Services Board has WITHDRAWN the proposed regulatory action for **6VAC20-100, Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections, Division of Adult Institutions**, which was published in [33:19 VA.R. 2039-2046 May 15, 2017](#). A new action will be initiated that will separate the responsibilities of the basic correctional officer and the agency from the responsibilities of the academy.

**Agency Contact:** Barbara Peterson-Wilson, Law Enforcement Program Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-4503, FAX (804) 786-0410, or email [barbara.peterson-wilson@dcjs.virginia.gov](mailto:barbara.peterson-wilson@dcjs.virginia.gov).

VA.R. Doc. No. R16-2873; Filed May 14, 2018, 1:54 p.m.



## TITLE 8. EDUCATION

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

#### Final Regulation

**REGISTRAR'S NOTICE:** The State Council of Higher Education for Virginia is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

**Title of Regulation:** 8VAC40-140. Virginia Vocational Incentive Scholarship Program for Shipyard Workers Regulations (amending 8VAC40-140-10, 8VAC40-140-40, 8VAC40-140-60 through 8VAC40-140-90).

**Statutory Authority:** § 23.1-2912 of the Code of Virginia.

**Effective Date:** June 15, 2018.

**Agency Contact:** Beverly Covington, Senior Associate for Academic and Legislative Affairs, State Council of Higher Education for Virginia, 101 North 14th Street, 9th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 371-0571, or email beverlycovington@schev.edu.

**Small Business Impact Review Report of Findings:** This final regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

**Summary:**

*The amendments clarify administration of the Virginia Vocational Incentive Scholarship Program for Shipyard Workers by Tidewater Community College by (i) updating terminology, (ii) incorporating changes to the authorizing law, and (iii) shifting responsibility where appropriate from the council to the college.*

**8VAC40-140-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Academic year" means the 12-month enrollment period, during which the college holds classes, comprised of the college's fall and spring semesters and summer session.

"Apprenticeship program" means a three-year program combining educational instruction and on-the-job training that is established for the purpose of enhancing the education and skills of shipyard workers and that is registered with the Virginia Department of Labor and Industry.

"Award year" means the period of time in which a scholar receives a scholarship during the academic year. Receipt of the scholarship during at least two of the three periods constitutes one full award year while enrollment in one period constitutes one half of an award year.

"College" means Tidewater Community College.

"Council" means the State Council of Higher Education for Virginia or its designated staff.

"Domiciliary resident of Virginia" means a student determined by the college to meet the domicile eligibility requirements specified by § 23.1-502 or 23.1-505 of the Code of Virginia and augmented by the Domicile Guidelines.

"Eligible course of study" means an Associate in Applied Science degree program or an apprenticeship program

registered with the Virginia Department of Labor and Industry.

"Program" means the Virginia Vocational Incentive Scholarship Program for Shipyard Workers.

"Scholar" means a recipient of program funds from the Virginia Vocational Incentive Scholarship Program for Shipyard Workers.

"Scholarship" means a grant from state funds appropriated for the Virginia Vocational Incentive Scholarship Program for Shipyard Workers.

"Shipyard worker" means any person employed full time on a salaried or wage basis whose tenure is not restricted as to temporary or provisional appointment at a ship manufacturing or ship repair company located in the Commonwealth of Virginia.

**8VAC40-140-40. Eligibility criteria for an initial scholarship.**

In order to receive a scholarship, the student must be:

1. A domiciliary resident of Virginia ~~as defined in § 23.1-502 of the Code of Virginia and determined by the college;~~
2. Employed full time as a shipyard worker; and
3. Enrolled ~~full time or part time~~ in an eligible course of study.

**8VAC40-140-60. Scholarship conditions.**

To receive initial and renewal scholarships, the student must enter into an agreement with ~~the council through~~ the college ~~under which he agrees~~ to:

1. Continue full-time employment as a shipyard worker until ~~his~~ successful completion of the eligible course of study;
2. Continue pursuing an eligible course of study;
3. Upon successful completion of the eligible course of study, work continuously in Virginia as a shipyard worker ~~for the same number of years that he was the beneficiary of such scholarship~~ at the rate of one calendar year for each award year received;
4. Provide evidence of compliance with subdivision 3 of this section in the form of a statement from the human resources director of the shipyard in which the scholar is working, certifying that the scholar is employed full time as a shipyard worker; and
5. Repay the total amount of funds received, or the appropriate portion thereof, and any accrued interest, if ~~he~~ the scholar fails to honor the requirements specified in subdivisions 1, 2, and 3 of this section.

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## 8VAC40-140-70. Scholarship amount.

A. In no case may a student receive a scholarship under the program that exceeds the cost of full tuition and required fees relating to the eligible course of study.

B. If a scholar ~~ceases full-time employment as a shipyard worker or~~ withdraws from all courses during a term, ~~the tuition refund policy in effect at the college will determine the portion of the award amount that~~ the amount of the scholarship must be reclaimed by the college.

## 8VAC40-140-80. Noncompliance with scholarship agreement.

A. A scholar found to be in noncompliance with the scholarship agreement entered shall:

1. Repay the amount of scholarship funds received, prorated according to the fraction of the work obligation not completed, as determined by the ~~council~~ college;
2. Pay a simple, per annum interest charge of 5.0% on the outstanding principal as determined by the ~~council~~ college; and
3. Pay all reasonable collection costs as determined by the ~~council~~ college.

B. A scholar required to repay ~~his~~ the scholarship shall:

1. Enter repayment status on the first day of the first calendar month after:
  - a. The ~~council~~ college has determined that the scholar is no longer enrolled in an eligible course of study, but not before six months has elapsed since the scholar was enrolled in such course of study;
  - b. The date the scholar informs the ~~council that he~~ college that the scholar does not plan to fulfill the work obligation; or
  - c. The latest date on which the scholar must have begun working in order to have completed the work obligation within 10 years after completing the postsecondary education for which the scholarship was awarded, as determined by the ~~council~~ college.

2. Make monthly payments to the ~~council~~ college that cover principal, interest, and any collection costs according to a schedule established by the ~~council~~ college that calls for minimum payments of \$100 per month and to complete repayment within 10 years after the scholar enters repayment status.

C. The interest charge specified in subdivision A 2 of this section accrues from:

1. The date of the initial scholarship payment if the ~~council~~ college has determined that the scholar is no longer enrolled in an eligible course of study or completed an

eligible course of study but never became employed as a shipyard worker; or

2. The day after the last day of the scholarship period for which the work obligation ~~has been fulfilled~~ is required.

D. The ~~council~~ college shall capitalize any accrued interest at the time it establishes a scholar's repayment schedule.

E. The ~~council~~ college may approve less than \$100 minimum monthly payments or forgive partial interest charges due to extenuating circumstances.

F. The ~~council~~ college may approve a reduction in interest charges for scholars making consistent on-time monthly payments that meet or exceed the minimum required amount.

G. A scholar is not considered in violation of the repayment schedule established by the ~~council~~ college during the time ~~he~~ the scholar is:

1. Serving on active duty as a member of the armed services of the United States or serving as a member of VISTA or the Peace Corps for a period not in excess of three years;
2. Accompanying a spouse who is serving on active duty as a member of the armed services of the United States or serving as a member of VISTA or the Peace Corps for a period not in excess of three years;
3. Experiencing health conditions that impede ~~his~~ the scholar's ability to perform requisite service in a shipyard setting for a period not to exceed three years;
4. Unable to secure employment by reason of the care required by a disabled child, spouse, or parent for a period not in excess of 12 months; or
5. Unable to satisfy the terms of the repayment schedule established by the council and is also seeking and unable to find full-time employment as a shipyard worker in Virginia for a single period not to exceed 27 months.

H. To qualify for any of the exceptions in subsection G of this section, a scholar must notify the ~~council~~ college of ~~his~~ a claim to the exception and provide supporting documentation as required by the ~~council~~ college.

I. During the time a scholar qualifies for any of the exceptions specified in subsection G of this section, ~~he~~ the scholar need not make the scholarship repayments and interest does not accrue.

J. The ~~council~~ college shall extend the 10-year scholarship repayment period by a period equal to the length of time a scholar meets any of the exceptions in subsection G of this section or if a scholar's inability to complete the scholarship repayments within this 10-year period because of ~~his~~ a financial condition has been established to the ~~council's~~ college's satisfaction.

K. The ~~council~~ college shall cancel a scholar's repayment obligation if it determines that:

1. On the basis of a sworn affidavit of a qualified physician, the scholar is unable to work on a full-time basis because of an impairment that is expected to continue indefinitely or result in death; or
2. On the basis of a death certificate or other evidence conclusive under state law, the scholar has died.

**8VAC40-140-90. Responsibility of the college.**

The college shall:

1. Comply with all requests from the council for reports or information necessary to carry out the operation of the program;
2. Retain a copy of each signed promissory note ~~and send the original promissory note to the council;~~ and
3. Notify the council if a scholar fails to meet the terms of the promissory note and enters repayment status.

DOCUMENTS INCORPORATED BY REFERENCE  
(8VAC40-140)

[Domicile Guidelines, State Council of Higher Education for Virginia, October 25, 2016](#)

VA.R. Doc. No. R18-5285; Filed May 16, 2018, 8:58 a.m.



**TITLE 16. LABOR AND EMPLOYMENT**

**VIRGINIA WORKERS' COMPENSATION COMMISSION**

**Proposed Regulation**

Title of Regulation: **16VAC30-16. Electronic Medical Billing (adding 16VAC30-16-10 through 16VAC30-16-80).**

Statutory Authority: § 65.2-605.1 of the Code of Virginia.

Public Hearing Information:

August 7, 2018 - 1 p.m. - Commissioners' Conference Room, 333 East Franklin Street, Richmond, VA 23219

Public Comment Deadline: August 10, 2018.

Agency Contact: James J. Szablewicz, Chief Deputy Commissioner, Virginia Workers' Compensation Commission, 333 East Franklin Street, Richmond, VA 23219, telephone (804) 205-3097, or email james.szablewicz@workcomp.virginia.gov.

Basis: The Virginia Workers' Compensation Commission is promulgating this regulation in accordance with the provisions of § 65.2-605.1 of the Code of Virginia, per

amendments added by Chapter 621 of the 2015 Acts of Assembly.

Purpose: The purpose of the regulation is to provide a legal framework for electronic billing, processing, and payment of medical services and products provided to an injured worker subject to the Virginia Workers' Compensation Act. The proposed regulation will expedite the submission, processing, and payment of bills for medical services rendered to injured workers pursuant to the Virginia Workers' Compensation Act utilizing nationally recognized standards.

Substance: The new regulation contains provisions addressing (i) formats for electronic medical bill processing; (ii) billing code sets; (iii) electronic medical billing, reimbursement, and documentation; (iv) employer, insurance carrier, managed care organization, or agents' receipt of medical bills from health care providers; (v) communication between health care providers and payers; and (vi) medical documentation necessary for billing adjudication.

Issues: The regulation is designed to assist workers' compensation payers and medical providers to promptly process payment of bills for medical services in Virginia workers' compensation cases, which is an advantage to the public and the Commonwealth. There are no known disadvantages to the public or the Commonwealth. The regulation does not require any reporting to or enforcement by the Virginia Workers' Compensation Commission or any other governmental agency.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 621 of the 2015 Acts of the Assembly, the Virginia Workers' Compensation Commission (Commission) proposes to adopt and implement an infrastructure that requires most providers of workers' compensation medical services to submit their billing, claims, case management, health records, and all supporting documentation electronically. As required by Chapter 621, this proposed regulation is consistent with the International Association of Industrial Accident Boards and Commission (IAIABC) Medical Billing and Payment guidelines. Consistent with IAIABC guidelines, health care providers will be exempt from these proposed requirements if they have 10 or fewer full time employees and treatment and services provided to injured workers billed under workers' compensation constitutes less than 10% of their practice.

Result of Analysis. Benefits likely outweigh costs for these proposed regulatory changes.

Estimated Economic Impact. Prior to this regulatory action, the Commission did not have rules for health care providers to submit workers' compensation bills and supporting documentation to insurers (payers) electronically. Commission staff reports that the General Assembly passed

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Chapter 621, which requires the Commission to "establish a schedule pursuant to which employers, employers' workers' compensation insurance carriers, and providers of workers' compensation medical services shall be required to adopt and implement infrastructure" for submitting billing, claims, case management, health records and all supporting documents electronically. Chapter 621 and this proposed regulation require that participating entities have this infrastructure in place no later than December 31, 2018. Commission staff reports that most bills and records are submitted in paper form now and most payments to providers are made via paper checks. The Commission now proposes a regulation that will:

1. Define terms and abbreviations.
2. Describe the electronic medical bill processing standards that are to be used for billings, acknowledgements, remittances, ancillary formats, and documentation transfers between providers and insurers.
3. Allow insurance carriers and health care providers to exchange electronic data in a non-prescribed format by mutual agreement or to use a direct data entry methodology so long as all of the required information is still collected.
4. State that when the prescribed formats are updated, the most recent standard would be required to be used by e-billing entities, once the new standard becomes effective as published in the Code of Federal Regulations.
5. List the billing code sets that are to be used in the e-billing system.
6. Describe the components of a complete electronic medical bill, including the correct format and a list of elements that must be identified.
7. Provide for acknowledgement of certain types of transactions including whether claims are complete or rejected, whether claims contain error codes, and prohibit the submission of duplicate electronic records.
8. Set timeframes for certain actions to occur.
9. Clarify that acceptance of complete and incomplete medical bills does not either admit liability or satisfy written notice requirements, but that it would begin the time period by which the payer must accept or deny liability and that it does serve as proof of the received date.
10. Specify the types of information that must be furnished electronically, including medical reports and records, bills, identification of the employee and medical providers, dates of service, and other specified types of data.
11. Require that electronic documentation be submitted by secure fax, secure encrypted electronic email, or other secure electronic format as defined by the Virginia Administrative Code.

12. Clarify how electronic remittance advice and electronic funds transfers are to occur and establish timeframes for these processes.

13. Detail the requirements for paper medical bills for the small health care providers who are exempt from e-billing requirements.

14. Provide for resubmissions in the event that the payer has rejected the medical bill as incomplete.

15. Require the insurance providers to attempt to establish connectivity through trading partner agreements.

16. Prohibit the imposition of excessive fees in order to comply with the requirements of this section.

17. Allow health care provider agents to charge reasonable fees related to data functions.

18. List the obligations of employers, insurance carriers, managed care organizations, and agents when they receive medical bills from health care providers, including the evaluation of the bills, the received date of the bills, the payer's ability to contact the medical provider, the payer's discretion to accept or reject bills, and the payer's ability to request additional information.

19. State that payment of all uncontested portions of a complete medical bill shall be made within a certain timeframe, and that amounts paid after that time shall accrue interest at the judgement rate of interest as established by Virginia Code § 6.2-302.

20. Describe how communication between health care providers and payers is to occur.

21. Clarify that medical documentation is necessary for billing adjudication and

22. Allow providers and payers the option to voluntarily comply with this chapter beginning six months after the publication of the final regulation in the Virginia Register of Regulations.

Affected health care providers and insurers will benefit from this proposed regulation as it will allow them to exchange information and resolve claims more quickly. Health care providers will additionally benefit from being paid more quickly via electronic deposit rather than having to wait for, and then physically deposit, paper checks. This action will likely decrease the costs incurred on billing activities that may now include copying costs to make paper copies of documents that providers are required to send insurers, time spent preparing and mailing documents and following up to make sure they were received, and time spent re-billing if payment decisions stretch beyond one billing cycle. Workers who are receiving health care services may also benefit if the exchange of electronic records allows their claims to be paid more expeditiously. Health care providers may incur costs for purchasing medical billing software that is capable of

exchanging medical bill and records data securely, or for contracting with a clearinghouse to process their medical bill and records data for them. Commission staff did not have an estimate for how much it would cost to either buy software or hire a clearinghouse service. These businesses are unlikely to choose to incur these costs unless they perceive the benefits of providing health care in workers' compensation cases, and being able to be paid for those services more quickly via electronic funds deposits, to be greater than any costs they incur to meet the requirements of the proposed regulation.

**Businesses and Entities Affected.** This proposed regulation will affect all workers' compensation insurers and their third party administrators, self-insured employers and health care providers who provide covered services to individuals who have been injured on the job. Injured workers whose health care and other expenses may be paid for via workers' compensation claims will also be affected. Sellers of medical billing software and clearinghouse processing services may also benefit.

**Localities Particularly Affected.** No localities will be particularly affected by this proposed change.

**Projected Impact on Employment.** Employment in the Commonwealth is unlikely to be significantly affected by this proposed regulation.

**Effects on the Use and Value of Private Property.** This proposed regulatory change is unlikely to affect the use or value of private property in the Commonwealth.

**Real Estate Development Costs.** These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

**Small Businesses:**

**Costs and Other Effects.** Small business medical practices may incur costs for purchasing medical billing software that is capable of exchanging medical bill and records data securely, or for contracting with a clearinghouse to process their medical bill and records data for them. These businesses are unlikely to incur these costs unless they perceive the benefits of providing health care in workers' compensation cases, and being able to be paid for those services more quickly via electronic funds deposits, to be greater than any costs they incur to meet the requirements of the proposed regulation.

**Alternative Method that Minimizes Adverse Impact.** There are likely no methods that would both meet the legislative mandate in Chapter 621 and further reduce costs.

**Adverse Impacts:**

**Businesses.** Private medical practices may incur costs for purchasing medical billing software that is capable of exchanging medical bill and records data securely, or for contracting with a clearinghouse to process their medical bill

and records data for them. These businesses are unlikely to incur these costs unless they perceive the benefits of providing health care in workers' compensation cases, and being able to be paid for those services more quickly via electronic funds deposits, to be greater than any costs they incur to meet the requirements of the proposed regulation.

**Localities.** No locality is likely to suffer adverse impacts on account of this proposed regulatory change.

**Other Entities.** No other entities are likely to suffer adverse impacts on account of this proposed regulatory change.

**Agency's Response to Economic Impact Analysis:** The Virginia Workers' Compensation Commission concurs with the economic impact analysis of the Department of Planning and Budget.

**Summary:**

*Pursuant to Chapter 621 of the 2015 Acts of Assembly, the proposed regulation implements infrastructure under which (i) providers of workers' compensation medical services (providers) submit billing, claims, case management, health records, and all supporting documentation electronically to employers or employers' workers' compensation insurance carriers (payers) and (ii) payers return actual payment, claim status, and remittance information electronically to providers that submit billing and required supporting documentation electronically. The proposed regulation establishes standards and methods for electronic submissions and transactions that are consistent with the electronic medical billing and payment guidelines of the International Association of Industrial Accident Boards and Commissions. The proposed regulation does not require any reporting to or enforcement by the Virginia Workers' Compensation Commission or any other governmental agency.*

## **CHAPTER 16** **ELECTRONIC MEDICAL BILLING**

### **16VAC30-16-10. Effective date.**

This chapter applies to all medical services and products provided on or after December 31, 2018. For medical services and products provided prior to December 31, 2018, medical billing and processing shall be in accordance with the rules in effect at the time the medical service or product was provided.

### **16VAC30-16-20. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Business day" means Monday through Friday, excluding days on which a holiday is observed by the Commonwealth of Virginia.

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"Clearinghouse" means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that is an agent of either the payer or the health care provider and that may perform the following functions:

1. Processes or facilitates the processing of medical billing information received from a client in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction for further processing of a bill related transaction; or

2. Receives a standard transaction from another entity and processes or facilitates the processing of medical billing information into nonstandard format or nonstandard data content for a client entity.

"CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, the federal agency that administers these programs.

"Companion Guide" means the Virginia Workers' Compensation Electronic Billing and Payment Companion Guides, based on International Association of Industrial Accident Boards and Commissions National Companion Guides, a separate document that gives detailed information for electronic data interchange (EDI) medical billing and payment for the workers' compensation industry using national standards and Virginia specific procedures.

"Complete electronic medical bill" means a medical bill that meets all of the criteria enumerated in 16VAC30-16-50 C.

"Electronic" means communication between computerized data exchange systems that complies with the standards enumerated in this chapter.

"Health care provider" means a person or entity, appropriately certified or licensed, as required, who provides medical services or products to an injured worker in accordance with § 65.2-603 of the Code of Virginia.

"Health care provider agent" means a person or entity that contracts with a health care provider establishing an agency relationship to process bills for services provided by the health care provider under the terms and conditions of a contract between the agent and health care provider. Such contracts may permit the agent to submit bills, request reconsideration, receive reimbursement, and seek medical dispute resolution for the health care provider services billed in accordance with §§ 65.2-605 and 65.2-605.1 of the Code of Virginia.

"Payer" means the insurer or authorized self-insured employer legally responsible for paying the workers' compensation medical bills.

"Payer agent" means any person or entity that performs medical bill related processes for the payer responsible for the

bill. These processes include reporting to government agencies; electronic transmission, forwarding, or receipt of documents; review of reports; and adjudication of bills and their final payment.

"Supporting documentation" means those documents necessary for the payer to process a bill and includes any written authorization received from the third party administrator or any other records as required by the Virginia Workers' Compensation Commission.

"Technical Report Type 3 (TR3) Implementation Guide" means an ASC X12 published document for national electronic standard formats that specifies data requirements and data transaction sets, as referenced in 16VAC30-16-30.

## **16VAC30-16-30. Formats for electronic medical bill processing.**

A. For electronic transactions, the following electronic medical bill processing standards shall be used:

### 1. Billing.

a. Professional billing: The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3 and Errata, Health Care Claim: Professional (837), June 2010, ASC X12, 005010X222A1.

b. Institutional or hospital billing: The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3 and Errata, Health Care Claim: Institutional (837), June 2010, ASC X12, 005010X223A2.

c. Dental billing: The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3 and Errata to Health Care Claim: Dental (837), June 2010, ASC X12, 005010X224A2.

d. Retail pharmacy billing: The Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0), August 2007, National Council for Prescription Drug Programs (NCPDP) and the Batch Standard Batch Implementation Guide, Version 1, Release 2 (Version 1.2), January 2006, National Council for Prescription Drug Programs.

### 2. Acknowledgment.

a. Electronic responses to the ASC X12N 837 transactions.

(1) The ASC X12 Standards for Electronic Data Interchange TA1 Interchange Acknowledgment contained in the standards adopted under subdivision A 1 of this section;

(2) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Implementation Acknowledgment for Health Care Insurance (999), June 2007, ASC X12N/005010X231; and

(3) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Health Care Claim Acknowledgment (277CA), January 2007, ASC X12N/005010X214.

b. Electronic responses to NCPDP transactions. The response contained in the standards adopted under subdivision A 1 d of this section.

3. Electronic remittance advice: The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3 Errata to Health Care Claim Payment/Advice (835), June 2010, ASC X12, 005010X221A1.

4. ASC X12 ancillary formats.

a. The ASC X12N/005010X213 Request for Additional Information (277) is used to request additional attachments that were not originally submitted with the electronic medical bill.

b. Health Claim Status Request and Response.

The use of the formats in this subdivision 4 is voluntary, and Section 2.2.2 of the Companion Guide presents an explanation of how to use them in workers' compensation.

5. Documentation submitted with an electronic medical bill in accordance with 16VAC30-16-50 E (relating to medical documentation): ASC X12N Additional Information to Support a Health Claim or Encounter (275), February 2008, ASC X12, 005010X210.

B. Payers and health care providers may exchange electronic data in a nonprescribed format by mutual agreement. All data elements required in the Virginia-prescribed formats shall be present in any mutually agreed upon format.

C. The implementation specifications for the ASC X12N and the ASC X12 Standards for Electronic Data Interchange may be obtained from the ASC X12, 7600 Leesburg Pike, Suite 430, Falls Church, VA 22043; telephone (703) 970-4480; and FAX (703) 970-4488. They are also available online at <http://store.x12.org/>. A fee is charged for all implementation specifications.

D. The implementation specifications for the retail pharmacy standards may be obtained from the National Council for Prescription Drug Programs, 9240 East Raintree Drive, Scottsdale, AZ 85260; telephone (480) 477-1000; and FAX (480) 767-1042. They are also available online at <http://www.ncpdp.org>. A fee is charged for all implementation specifications.

E. Nothing in this section will prohibit payers and health care providers from using a direct data entry methodology for complying with the requirements of this section, provided the methodology complies with the data content requirements of the formats enumerated in subsection A of this section and this chapter.

F. The most recent standard for the formats in subsection A of this section shall be used, commencing on the effective date of the applicable standard as published in the Code of Federal Regulations.

**16VAC30-16-40. Billing code sets.**

Billing codes and modifier systems identified in this section are valid codes for the specified workers' compensation transactions, in addition to any code sets defined by the standards in 16VAC30-16-30.

1. "CDT-4 Codes" are codes and nomenclature prescribed by the American Dental Association.

2. "CPT-4 Codes" are the procedural terminology and codes contained in the "Current Procedural Terminology, Fourth Edition," as published by the American Medical Association.

3. "Diagnosis Related Group" or "DRG" is the inpatient classification scheme used by CMS for hospital inpatient reimbursement. The DRG system classifies patients based on principal diagnosis, surgical procedure, age, presence of comorbidities and complications, and other pertinent data.

4. "Healthcare Common Procedure Coding System" or "HCPCS" is a coding system that describes products, supplies, procedures, and health professional services and that includes the American Medical Association's Physician "Current Procedural Terminology, Fourth Edition," CPT-4 codes, alphanumeric codes, and related modifiers.

5. "ICD-10-CM/PCS Codes" are diagnosis and procedure codes in the International Classification of Diseases, Tenth Edition, Clinical Modification/Procedure Coding System maintained and published by the U.S. Department of Health and Human Services.

6. "NDC" are National Drug Codes of the U.S. Food and Drug Administration.

7. "Revenue Codes" is the four-digit coding system developed and maintained by the National Uniform Billing Committee for billing inpatient and outpatient hospital services, home health services, and hospice services.

8. "National Uniform Billing Committee Codes" are a code structure and instructions established for use by the National Uniform Billing Committee, such as occurrence codes, condition codes, or prospective payment indicator codes. As of (insert effective date of final regulation), these are known as UB04 codes.

**16VAC30-16-50. Electronic medical billing, reimbursement, and documentation.**

A. Applicability.

1. This section outlines the exclusive process for the initial exchange of electronic medical bill and related payment

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processing data for professional, institutional or hospital, pharmacy, and dental services.

2. Payers or their agents shall:

- a. Accept electronic medical bills submitted in accordance with the adopted standards;
- b. Transmit acknowledgments and remittance advice in compliance with the adopted standards in response to electronically submitted medical bills; and
- c. Support methods to receive electronic documentation required for the adjudication of a bill, as described in 16VAC30-16-80.

3. Unless exempted from this process in accordance with subsection B of this section, a health care provider shall:

- a. Implement a software system capable of exchanging medical bill data in accordance with the adopted standards or contract with a clearinghouse to exchange its medical bill data;
- b. Submit medical bills as provided in 16VAC30-16-30 A 1 to any payers that have established connectivity to the health care provider's system or clearinghouse;
- c. Submit required documentation in accordance with subsection E of this section; and
- d. Receive and process any acceptance or rejection acknowledgment from the payer.

4. Payers shall be able to exchange electronic data by December 31, 2018.

5. Health care providers or their agents shall be able to exchange electronic data by December 31, 2018, unless exempted from the process in accordance with subsection B of this section.

B. Exemptions. A health care provider is exempt from the requirement to submit medical bills electronically to a payer if:

- 1. The health care provider employs 10 or fewer full-time employees; and
- 2. Treatment or services provided to injured workers to be billed under workers' compensation constitutes less than 10% of the health care provider's practice.

C. Complete electronic medical bill. To be considered a complete electronic medical bill, the bill or supporting transmissions shall:

- 1. Be submitted in the correct billing format;
- 2. Be transmitted in compliance with the format requirements described in 16VAC30-16-30;
- 3. Include in legible text all supporting documentation for the bill, including medical reports and records, evaluation

reports, narrative reports, assessment reports, progress reports, progress notes, clinical notes, hospital records, and diagnostic test results that are expressly required by law or can reasonably be expected by the payer or its agent under the laws of Virginia;

4. Identify the following:

- a. Injured employee;
- b. Employer;
- c. Insurance carrier, third-party administrator, managed care organization, or payer agent;
- d. Health care provider;
- e. Medical service or product; and
- f. Any other requirements as presented in the Companion Guide; and

5. Use current and valid codes and values as defined in the applicable formats referenced in this chapter and the Companion Guide.

D. Acknowledgment.

1. An Interchange Acknowledgment (ASC X12 TA1) notifies the sender of the receipt of, and certain structural defects associated with, an incoming transaction.

2. An Implementation Acknowledgment (ASC X12 999) transaction is an electronic notification to the sender of the file that it has been received and has been:

- a. Accepted as a complete and structurally correct file; or
- b. Rejected with a valid rejection error code.

3. A Health Care Claim Acknowledgment (ASC X12 277CA) is an electronic acknowledgment to the sender of an electronic transaction that the transaction has been received and has been:

- a. Accepted as a complete, correct submission; or
- b. Rejected with a valid rejection error code.

4. A payer shall acknowledge receipt of an electronic medical bill by returning an Implementation Acknowledgment (ASC X12 999) within one business day of receipt of the electronic submission.

a. Notification of a rejected bill is transmitted using the appropriate acknowledgment when an electronic medical bill does not meet the definition of a complete electronic medical bill as described in subsection C of this section or does not meet the edits defined in the applicable implementation guide.

b. A health care provider or its agent shall not submit a duplicate electronic medical bill earlier than 60 calendar days from the date originally submitted if a payer has acknowledged acceptance of the original complete

electronic medical bill. A health care provider or its agent may submit a corrected medical bill electronically to the payer after receiving notification of a rejection. The corrected medical bill is submitted as a new, original bill.

5. A payer shall acknowledge receipt of an electronic medical bill by returning a Health Care Claim Acknowledgment (ASC X12 277CA) transaction (detail acknowledgment) within two business days of receipt of the electronic submission.

a. Notification of a rejected bill is transmitted in an ASC X12N 277CA response or acknowledgment when an electronic medical bill does not meet the definition of a complete electronic medical bill or does not meet the edits defined in the applicable implementation guide.

b. A health care provider or its agent shall not submit a duplicate electronic medical bill earlier than 60 calendar days from the date originally submitted if a payer has acknowledged acceptance of the original complete electronic medical bill. A health care provider or its agent may submit a corrected medical bill electronically to the payer after receiving notification of a rejection. The corrected medical bill is submitted as a new, original bill.

6. Acceptance of a complete medical bill is not an admission of liability by the payer. A payer may subsequently reject an accepted electronic medical bill if the employer or other responsible party named on the medical bill is not legally liable for its payment.

a. The rejection is transmitted by means of a Health Care Claim Payment/Advice ASC X12 835 transaction.

b. The subsequent rejection of a previously accepted electronic medical bill shall occur no later than 45 calendar days from the date of receipt of the complete electronic medical bill.

c. The transaction to reject the previously accepted complete medical bill shall clearly indicate that the reason for rejection is that the payer is not legally liable for its payment.

7. Acceptance of an incomplete medical bill does not satisfy the written notice of injury requirement from an employee or payer as required by §§ 65.2-600 and 65.2-900 of the Code of Virginia.

8. Acceptance of a complete or incomplete medical bill by a payer does begin the time period by which a payer shall accept or deny liability for any alleged claim related to such medical treatment pursuant to § 65.2-605.1 of the Code of Virginia.

9. Transmission of an Implementation Acknowledgment under subdivision D 2 of this section and acceptance of a complete, structurally correct file serves as proof of the

received date for an electronic medical bill in subsection C of this section.

## E. Electronic documentation.

1. Electronic documentation, including medical reports and records submitted electronically that support an electronic medical bill, may be required by the payer before payment may be remitted to the health care provider in accordance with this chapter.

2. Complete electronic documentation shall be submitted by secure fax, secure encrypted electronic mail, or in a secure electronic format as described in 16VAC30-16-30.

3. The electronic transmittal, by secure fax, secure encrypted electronic mail, or any other secure electronic format, shall prominently contain the following details on its cover sheet or first page of the transmittal:

a. The name of the injured employee;

b. Identification of the worker's employer, the employer's insurance carrier, or the third-party administrator or its agent handling the workers' compensation claim;

c. Identification of the health care provider billing for services to the injured worker, and where applicable, its agent;

d. Dates of service;

e. The workers' compensation claim number assigned by the payer if established by the payer; and

f. The unique attachment indicator number.

## F. Electronic remittance advice and electronic funds transfer.

1. An electronic remittance advice (ERA) is an explanation of benefits (EOB) or explanation of review (EOR), submitted electronically, regarding payment or denial of a medical bill, recoupment request, or receipt of a refund.

2. The ERA shall contain the appropriate Claim Adjustment Group Codes, Claim Adjustment Reason Codes, and associated Remittance Advice Remark Codes as specified in the Code Value Usage in Health Care Claim Payments and Subsequent Claims Technical Report Type 2 (TR2) Workers' Compensation Code Usage Section and for pharmacy charges, the National Council for Prescription Drugs Program (NCPDP) Reject/Payment Codes, denoting the reason for payment, adjustment, or denial. Instructions for the use of the ERA and code sets are found in section 7.5 of the Companion Guide.

3. The ERA shall be sent before five business days of:

a. The expected date of receipt by the health care provider of payment from the payer, or

b. The date the bill was rejected by the payer.

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4. All payments for services are required to be paid via electronic funds transfer unless an alternate electronic method is agreed upon by the payer and health care provider.

G. Requirements for health care providers exempted from electronic billing. Health care providers exempted from electronic medical billing pursuant to subsection B of this section shall submit paper medical bills for payment in the following formats as applicable:

1. On the current standard forms used by CMS, which are available online at <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/index.html>.

2. On the current NCPDP Workers' Compensation/Property and Casualty Universal Claim Form (WC/PC UCF), which are available online at <http://www.ncdp.org/Products/Universal-Claim-Forms>.

3. On the current American Dental Association Claim Form, which is available online at <https://www.ada.org/en/publications/cdt/ada-dental-claim-form>.

All information submitted on required paper billing forms under this subsection shall be legible and accurately completed.

H. Resubmissions. A health care provider or its agent shall not submit a duplicate paper medical bill earlier than 30 business days from the date originally submitted unless the payer has rejected the medical bill as incomplete in accordance with 16VAC30-16-60. A health care provider or its agent may submit a corrected paper medical bill to the payer after receiving notification of the rejection of an incomplete medical bill. The corrected medical bill is submitted as a new, original bill.

I. Connectivity. Unless the payer or its agent is exempted from the electronic medical billing process in accordance with subsection B of this section, it should attempt to establish connectivity through a trading partner agreement with any clearinghouse that requests the exchange of data in accordance with 16VAC30-16-30.

J. Fees. No party to the electronic transactions shall charge excessive fees of any other party in the transaction. A payer or clearinghouse that requests another payer or clearinghouse to receive, process, or transmit a standard transaction shall not charge fees or costs in excess of the fees or costs for normal telecommunications that the requesting entity incurs when it directly transmits or receives a standard transaction.

K. A health care provider agent may charge reasonable fees related to data translation, data mapping, and similar data functions when the health care provider is not capable of submitting a standard transaction. In addition, a health care provider agent may charge a reasonable fee related to:

1. Transaction management of standard transactions, such as editing, validation, transaction tracking, management reports, portal services, and connectivity; and

2. Other value added services, such as electronic file transfers related to medical documentation.

L. A payer or its agent shall not reject a standard electronic transaction on the basis that it contains data elements not needed or used by the payer or its agent or that the electronic transaction includes data elements that exceed those required for a complete bill as enumerated in subsection C of this section.

M. A health care provider that has not implemented a software system capable of sending standard transactions is required to use a secure online direct data entry system offered by a payer if the payer does not charge a transaction fee. A health care provider using an online direct data entry system offered by a payer or other entity shall use the appropriate data content and data condition requirements of the standard transactions.

## **16VAC30-16-60. Employer, insurance carrier, managed care organization, or agent's receipt of medical bills from health care providers.**

A. Upon receipt of medical bills submitted in accordance with 16VAC30-16-30, 16VAC30-16-40, and 16VAC30-16-50, a payer shall evaluate each bill's conformance with the criteria of a complete electronic medical bill.

1. A payer shall not reject medical bills that are complete, unless the bill is a duplicate bill.

2. Within 21 calendar days of receipt of an incomplete medical bill, a payer or its agent shall either:

a. Complete the bill by adding missing health care provider identification or demographic information already known to the payer; or

b. Reject the incomplete bill, in accordance with this subsection.

B. The received date of an electronic medical bill is the date all of the contents of a complete electronic medical bill are successfully received by the payer.

C. The payer may contact the health care provider to obtain the information necessary to make the bill complete.

1. Any request by the payer or its agent for additional documentation to pay a medical bill shall:

a. Be made by telephone or electronic transmission unless the information cannot be sent by those media, in which case the sender shall send the information by mail or personal delivery;

b. Be specific to the bill or the bill's related episode of care;

c. Describe with specificity the clinical and other information to be included in the response;

d. Be relevant and necessary for the resolution of the bill;

e. Be for information that is contained in or is in the process of being incorporated into the injured employee's medical or billing record maintained by the health care provider; and

f. Indicate the specific reason for which the insurance carrier is requesting the information.

2. If the payer or its agent obtains the missing information and completes the bill to the point that it can be adjudicated for payment, the payer shall document the name and telephone number of the person who supplied the information.

3. Health care providers and payers, or their agents, shall maintain documentation of any pertinent internal or external communications that are necessary to make the medical bill complete.

D. A payer shall not reject or deny a medical bill except as provided in subsection A of this section. When rejecting or denying an electronic medical bill, the payer shall clearly identify the reasons for the bill's rejection or denial by utilizing the appropriate codes in the standard transactions found in 16VAC30-16-50 D 3 b.

E. The rejection of an incomplete medical bill in accordance with this section fulfills the obligation of the payer to provide to the health care provider or its agent information related to the incompleteness of the bill.

F. Payers shall timely reject incomplete bills or request additional information needed to reasonably determine the amount payable.

1. For bills submitted electronically, the rejection of the entire bill or the rejection of specific service lines included in the initial bill shall be sent to the submitter within two business days of receipt.

2. If bills are submitted in a batch transmission, only the specific bills failing edits shall be rejected.

3. If there is a technical defect within the transmission itself that prevents the bills from being accessed or processed, the transmission will be rejected with an Interchange Acknowledgment (ASC X12 TA1) transaction or an Implementation Acknowledgment (ASC X12 999) transaction, as appropriate.

G. If a payer has reason to challenge the coverage or amount of a specific line item on a bill but has no reasonable basis for objections to the remainder of the bill, the uncontested portion shall be paid timely, as described in subsection H of this section.

H. Payment of all uncontested portions of a complete medical bill shall be made within 60 calendar days of receipt of the original bill or receipt of additional information requested by the payer allowed under the law. Amounts paid after this 60-calendar-day review period will accrue interest at the judgment rate of interest as provided in § 6.2-302 of the Code of Virginia. The interest payment shall be made at the same time.

I. A payer shall not reject or deny a medical bill except as provided in subsection A of this section. When rejecting or denying a medical bill, the payer shall also communicate to the health care provider the reasons for the medical bill's rejection or denial.

### **16VAC30-16-70. Communication between health care providers and payers.**

A. Any communication between the health care provider and the payer related to medical bill processing shall be of sufficient specific detail to allow the responder to easily identify the information required to resolve the issue or question related to the medical bill. Generic statements that simply state a conclusion such as "payer improperly reduced the bill" or "health care provider did not document" or other similar phrases with no further description of the factual basis for the sender's position do not satisfy the requirements of this section.

B. The payer's utilization of the Claim Adjustment Group Codes, Claim Adjustment Reason Codes, or the Remittance Advice Remark Codes, or as appropriate, the National Council for Prescription Drugs Program Reject/Payment Codes, when communicating with the health care provider or its agent or assignee, through the use of the Health Care Claim Payment/Advice ASC X12 835 transaction, provides a standard mechanism to communicate issues associated with the medical bill.

C. Communication between the health care provider and payer related to medical bill processing shall be made by telephone or electronic transmission unless the information cannot be sent by those media, in which case the sender shall send the information by mail or personal delivery.

### **16VAC30-16-80. Medical documentation necessary for billing adjudication.**

A. Medical documentation includes all medical reports and records permitted or required in accordance with Rule 4.2 of the Rules of the Virginia Workers' Compensation Commission, subdivision 2 of 16VAC30-50-50.

B. Any request by the payer for additional documentation to process a medical bill shall conform to the requirements of 16VAC30-16-60 C.

C. It is the obligation of an insurer or employer to furnish its agents with any documentation necessary for the resolution of a medical bill.

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D. Health care providers, health care facilities, third-party biller, third-party assignees, and claims administrators and their agents shall comply with all applicable federal and jurisdictional rules related to privacy, confidentiality, and security.

DOCUMENTS INCORPORATED BY REFERENCE  
(16VAC30-16)

[Electronic Billing and Payment Companion Guide, Virginia Workers' Compensation Commission, Release 1.0, 12/2018](#)

VA.R. Doc. No. R16-4654; Filed May 21, 2018, 2:07 p.m.

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-410, Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated May 5, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The provisions of this regulation continue to be necessary in order to assist in ensuring the proper oversight of the sale of liming materials in the Commonwealth. The agency has not received any complaints or comments from the public concerning this regulation. The agency has determined that the regulation is not unnecessarily complex and is easily understood by the regulated industry. This regulation does not overlap, duplicate, or conflict with any federal law or any other state law or regulation. Additionally, the agency has determined that there are no changes to technology, economic conditions, or other factors that have occurred that necessitate amendments to this regulation. The agency has determined that this regulation is the least burdensome alternative for effectively regulating participants in this industry, including small businesses.

Contact Information: Debra Martin, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or email [debra.martin@vdacs.virginia.gov](mailto:debra.martin@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-690, Regulations for Pesticide Containers and Containment under Authority of the Virginia Pesticide Control Act**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated May 9, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

This regulation establishes (i) standards for container design and residue removal in nonrefillable pesticide containers, standards for container design in refillable pesticide containers, and standards for repackaging pesticide products into refillable containers and pesticide containment structures; and (ii) recordkeeping requirements. Individuals, businesses, or other entities affected by the proposed regulations may

include pesticide registrants, retailers, distributors, commercial applicators, custom blenders, and end-users. Virginia's regulations are equivalent to the federal regulations that are currently in place and allow more flexibility and greater discretion in the enforcement of pesticide container and containment requirements based on Virginia's unique needs and conditions. No complaints or comments concerning the regulations have been received from the public. This regulation became effective in January 2014, and no conditions or factors have changed since this time that would necessitate any revisions to this regulation.

Approximately 50 facilities are required to comply with the regulations. The vast majority of these facilities are small businesses. As the regulation is equivalent to the federal regulation, this regulation does not prescribe requirements for regulants with which they would not have to comply were the regulation repealed. Amendments to the current regulation providing exemptions from its provisions or less stringent requirements for certain regulants would not provide protection for human health and the environment.

Contact Information: Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6559, FAX (804) 371-2283, or email [liza.fleeson@vdacs.virginia.gov](mailto:liza.fleeson@vdacs.virginia.gov).

## DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

### Proposed Variance to Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115)

The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115), hereafter referred to as the "Human Rights Regulations," is announcing a decision by the State Human Rights Committee (SHRC) on applications for proposed variances to the Human Rights Regulations. The purpose of the regulations is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application must reference the specific part of these regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application must also describe time limits and other conditions for duration and the circumstances that will end the applicability of the variance.

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## General Notices/Errata

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All variances shall be approved for a specific time period. Variances to the Human Rights Regulations by providers are reviewed by the SHRC at least annually, with reports to the SHRC regarding the variances as requested.

After considering all available information at its meeting on April 20, 2018, the SHRC voted to approve each application for variance listed below.

### **Newport News Behavioral Health Center**

A public comment period was held from February 19, 2018, through March 21, 2018. No comments were received. The SHRC approved the variance application. The variance was approved for a three-year period, with annual updates provided to the SHRC and quarterly review by the local human rights committee (LHRC).

#### Variance to procedures for restrictions on freedoms of everyday life:

12VAC35-115-100 A 1 a:

Newport News Behavioral Health Center requested a variance to this provision in order to utilize a point level system (Behavior Management Model) affecting movement of an individual within the service setting, grounds, and community. It would require an individual to earn points through a level system. The level system is to provide all residents with consistent rewards for positive and constructive behavior and provide consequences when a resident chooses to ignore those rules.

### **DBHDS Virginia Center for Behavioral Rehabilitation (VCBR)**

A public comment period was held from December 25, 2017, through January 25, 2018. No comments were received. The SHRC approved the variance applications. The variances were approved for a three-year period, with annual updates provided to the SHRC and quarterly review by the LHRC.

#### Variance to complaint procedure:

The Human Rights Regulations provide a comprehensive complaint resolution process that includes access to an LHRC and the SHRC, articulated in the regulation sections specified below:

12VAC35-115-150: General provisions

12VAC35-115-175: Human rights complaint process

12VAC35-115-180: Local human rights committee hearing and review procedures

12VAC35-115-190: Special procedures for emergency hearings by the LHRC

12VAC35-115-200: Special procedures for LHRC reviews involving consent and authorization

12VAC35-115-210: State Human Rights Committee appeals procedures

VCBR Facility Instruction No. 202, Resident Complaint Resolution, provides alternative procedures for addressing resident complaints to be followed in lieu of those specified in the regulatory sections listed. VCBR's variances to these regulations are reviewed by the SHRC at least annually, with VCBR providing reports to the SHRC regarding the variances as requested.

#### Variance for rooms within medical unit with no windows:

VCBR has four bedrooms in its medical unit that do not meet the requirement of the italicized portion of the following regulation:

12VAC35-115-50 C 3 (d): Live in a humane, safe, sanitary environment *that gives each individual, at a minimum, windows or skylights in all major areas used by individuals.*

VCBR requested a variance to this regulation to enable it to utilize these bedrooms if a bedroom that meets the requirement is not available on a unit that meets an individual's needs. VCBR currently provides a monthly report to the SHRC on how many times rooms with no windows within the medical unit of VCBR are used during the previous month and will continue to do so.

#### Variance for double-bunking:

Following the mandate by the General Assembly (Chapter 806 of the 2011 Acts of Assembly), VCBR implemented double-bunking (two individuals residing in a single room). Although VCBR has attempted to maintain residents' privacy and a physical environment free from bad odors, this is not always possible. For this reason, VCBR requested a variance to the regulations listed below:

12VAC35-115-50 C 3 (a) and (e):

a) Reasonable privacy and private storage space

e) Clean air, free of bad odors

VCBR Facility Instruction No. 124, Resident Housing Assignment, describes how residents' housing assignments are determined and shall substitute for these regulations. VCBR provides a monthly report to the SHRC on how many residents are double-bunked, complaints received by residents regarding double-bunking, and any medication sessions treatment staff hold with roommates to resolve concerns related to double-bunking.

Contact Information: Deborah Lochart, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-0032, FAX (804) 804-371-2308, or email [deb.lochart@dbhds.virginia.gov](mailto:deb.lochart@dbhds.virginia.gov).

**COMMISSION ON LOCAL GOVERNMENT**

**Schedule for the Assessment of State and Federal Mandates on Local Governments**

Pursuant to the provisions of § 2.2-613 and subdivision 6 of § 15.2-2903 of the Code of Virginia, the following schedule, established by the Commission on Local Government and approved by Secretary of Commerce and Trade R. Brian Ball and Governor Ralph S. Northam, represents the timetable that the listed executive agencies will follow in conducting their assessments of certain state and federal mandates they administer that are imposed on local governments. Such mandates are new (in effect for at least 24 months), newly identified, or have been significantly altered as to warrant a reassessment of the mandate (and have been in effect for

24 months). In conducting these assessments, agencies will follow the process established by Executive Order 58, which became effective October 11, 2007. These mandates are abstracted in the Catalog of State and Federal Mandates on Local Governments published by the Commission on Local Government and approved by the commission on March 13, 2018.

For further information contact Kristen Dahlman, Senior Policy Analyst, Commission on Local Government, email [kristen.dahlman@dhcd.virginia.gov](mailto:kristen.dahlman@dhcd.virginia.gov) or telephone (804) 371-7017, or visit the Commission's website at [www.dhcd.virginia.gov](http://www.dhcd.virginia.gov).

STATE AND FEDERAL MANDATES ON LOCAL GOVERNMENTS

Approved Schedule of Assessment Periods – July 2018 through June 2019

For Executive Agency Assessment of Cataloged Mandates

AGENCY	CATALOG NUMBER	ASSESSMENT PERIOD
Mandate Short Title		
AGRICULTURE & CONSUMER SERVICES, DEPARTMENT OF		
Animal Control and Law Enforcement Animal Recordkeeping Requirements	SAF.VDACS013	8/01/18 to 10/31/18
EDUCATION, DEPARTMENT OF		
School Staffing Ratios	SOE.DOE010	7/01/18 to 9/30/18
Standards of Accreditation Requirements	SOE.DOE030	7/01/18 to 9/30/18
Broadband Connectivity Capability	SOE.DOE148	7/01/18 to 9/30/18
ENVIRONMENTAL QUALITY, DEPARTMENT OF		
Stormwater Management Programs by Localities	SNR.DEQ039	9/01/18 to 11/30/18
HOUSING & COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Local Building Permit Fee Levy	SCT.DHCD021	8/01/18 to 10/31/18
Virginia Main Street (VMS)	SCT.DHCD022	8/01/18 to 10/31/18
SOCIAL SERVICES, DEPARTMENT OF		
Support Payments for Public Service	SHHR.DSS081	9/01/18 to 11/30/18
VIRGINIA STATE POLICE		
Officer Involved Shooting	SPSHS.VSP018	8/01/18 to 10/31/18

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# General Notices/Errata

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## VIRGINIA LOTTERY

### Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on May 23, 2018. The orders may be viewed at the Virginia Lottery, 600 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia.

#### Director's Order Number Fifty-Two (18)

Virginia Lottery's Scratch Game 1886 "Ford Expedition Plus \$100K" Final Rules for Game Operation (effective May 9, 2018)

#### Director's Order Number Fifty-Three (18)

Virginia Lottery's Scratch Game 1893 "20X The Money" Final Rules for Game Operation (effective May 22, 2018)

#### Director's Order Number Fifty-Four (18)

Virginia Lottery's Scratch Game 1857 "7x The Money" Final Rules for Game Operation (effective May 9, 2018)

#### Director's Order Number Sixty (18)

Virginia Lottery's Scratch Game 1816 "Beginners Luck" Final Rules for Game Operation (effective May 9, 2018)

#### Director's Order Number Sixty-Eight (18)

Virginia Lottery's "Riverrock" Promotion Final Rules for Operation (This Director's Order becomes effective on May 18, 2018, and shall remain in full force and effect through the end Promotion date unless amended or rescinded by further Director's Order)

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Draft Local Education Agency Provider Manual for Stakeholder Input

Comment period: May 16, 2018, through June 15, 2018.

The draft Local Education Agency (LEA) Provider Manual (Chapters II and IV) are posted on the Department of Medical Assistance services website at [http://www.dmas.virginia.gov/Content\\_pgs/pd-pmnl.aspx](http://www.dmas.virginia.gov/Content_pgs/pd-pmnl.aspx) for public comment through June 15, 2018. Please see the overview below for more details.

#### Overview of Changes

Chapter II (Pages 15-16):

- Updates references to sections of Virginia Administrative Code pertaining to licensing of speech-language pathologists (SLPs) and audiologists.

Chapter IV (Pages 10-12):

- Clarifies requirements for SLPs who can implement the plan of care, with and without supervision, in accordance with current licensing requirements of the Board of Audiology and Speech-Language Pathology.
- Implements consistent use of the terms "speech-language pathologist (SLP)" and "speech-language therapy."
- Updates references to sections of Virginia Administrative Code pertaining to licensing of speech-language pathologists and audiologists.

Chapters II and IV of the LEA Provider Manual will be finalized and officially posted by June 22, 2018, at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManuals>.

**Contact Information:** Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

## BOARD OF MEDICINE and BOARD OF NURSING

### Draft Regulations for Autonomous Practice for Nurse Practitioners

Comment period: May 22, 2018, to June 21, 2018.

The Board of Medicine and the Board of Nursing are seeking public comment on draft regulations to implement Chapter 776 of 2018 Acts of Assembly, legislation to authorize nurse practitioners who meet certain qualifications to practice without a practice agreement with a patient care team physician.

On May 17, 2018, the Committee of the Joint Boards of Nursing and Medicine and its Advisory Committee, serving as the Regulatory Advisory Panel, adopted recommended amendments to nurse practitioner regulations to implement the provisions of Chapter 776.

The Board of Nursing will consider the draft regulations on July 17, 2018, and the Board of Medicine will consider the draft regulations on August 3, 2018. In order to comply with the second enactment on the bill requiring regulations to be effective within 280 days, the boards will be adopting emergency regulations.

Comment on the draft regulations, as recommended by the Regulatory Advisory Panel, may be posted in a public comment forum on the Virginia Regulatory Town Hall or emailed to [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov). Comments sent by postal mail should be directed to Elaine Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233.

View draft regulations at <http://leg1.state.va.us/000/lst/r1265304.HTM>.

**Contact Information:** Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4520, FAX (804) 527-4455, or email [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

**Contact Information:** William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4558, FAX (804) 527-4429, or email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

**STATE WATER CONTROL BOARD**

**Enforcement Action for A&B Salvage Inc.**

An enforcement action has been proposed for A&B Salvage Inc. for violations of the State Water Control Law in New Church, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Jennifer Coleman, Esq. will accept comments by email at [jennifer.coleman@deq.virginia.gov](mailto:jennifer.coleman@deq.virginia.gov), FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from June 11, 2018, to July 11, 2018.

**Proposed Enforcement Action for Jefferson-Lakeside Club**

An enforcement action has been proposed for Jefferson-Lakeside Club for violations of State Water Control Law that occurred in Richmond, Virginia. A description of the proposed action is available online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Lee Crowell will accept comments by email at [lee.crowell@deq.virginia.gov](mailto:lee.crowell@deq.virginia.gov) or postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23219, from June 11, 2018, through July 11, 2018.

**Public Meeting and Opportunity for Public Comment on Total Maximum Daily Load for Tributaries along the Rappahannock River**

**Community meeting:** A community meeting will be held Wednesday, June 20, 2018, at 5:30 p.m. at Westmoreland Fire Department, 52 Rectory Road, Montross, VA 22520. This meeting will be open to the public and all are welcome to participate. In the case of inclement weather or other reason for postponement, an alternate meeting date is scheduled for Monday, June 25, 2018, at 5:30 p.m. at the same location. For more information, please contact Anna Reh-Gingerich, telephone (804) 527-5021 or email [anna.reh-gingerich@deq.virginia.gov](mailto:anna.reh-gingerich@deq.virginia.gov).

**Purpose of notice:** The Department of Environmental Quality (DEQ) and its contractors, Virginia Tech Biological Systems Engineering, will announce the development of a water quality study known as a total maximum daily load (TMDL)

for tributaries along the Rappahannock River located in Essex, Westmoreland, Richmond, Caroline, and King George Counties. This is an opportunity for local residents to learn about the condition of these waters, share information about the area, and become involved in the process of local water quality improvement. A public comment period will follow the meeting, June 21, 2018, to July 20, 2018.

**Description of study:** Portions of the Rappahannock River and its tributaries were identified in Virginia's 2016 Water Quality Assessment and Integrated Report as impaired due to violations of the state's water quality standards for Enterococci and E. coli and do not support the designated uses of "primary contact (recreational or swimming)." The specific impairments are included in this notice. Reductions and TMDLs for the causes of the impairments have been developed and are available for community review in the TMDL report located online at [http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/drftm/dls/RappahannockRiver\\_Bacteria\\_DRAFT\\_FINALIZED.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/drftm/dls/RappahannockRiver_Bacteria_DRAFT_FINALIZED.pdf).

**How to comment and participate:** The meetings of the TMDL process are open to the public and all interested parties are welcome. Written comments will be accepted through July 20, 2018, and should include the name, address, and telephone number of the person submitting the comments. For more information or to submit written comments, please contact Anna Reh-Gingerich, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Glen Allen, VA 23060, telephone (804) 527-5021, or email [anna.reh-gingerich@deq.virginia.gov](mailto:anna.reh-gingerich@deq.virginia.gov).

**Affected Waterways:**

1. Baylors Creek (E22R-05-BAC), Assessment Unit VAP-E22R\_BAY01A08, 5.89 miles, Baylors Creek from its headwaters to the extent of backwater of Baylors Pond.
2. Elmwood Creek and Tributary XHY (E22R-04-BAC), Assessment Unit VAP-E22R\_ELM01A06, 9.07 miles, the nontidal portion of Elmwood Creek and its tributary XHY in its entirety.
3. Stillwater Creek (E22R-08-BAC), Assessment Unit VAP-E22R\_STL01A14, 3.52 miles, Stillwater Creek from its headwaters at Cockerel Creek downstream to its tidal limit.
4. Peedee Creek (E22R-06-BAC), Assessment Unit VAP-E22R\_PEE01A08, 3.29 miles, the mainstem of Peedee Creek from its headwater to the extent of tide.
5. XHW, an unnamed tributary to Peedee Creek (E22R-09-BAC), Assessment Unit VAP-E22R\_XHW01A14, 0.47 miles, headwaters to mouth.
6. Peedee Creek, tidal portion (E22E-03-BAC), Assessment Unit VAP-E22E\_PEE01A14, 0.15 square miles, tidal Peedee Creek.

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7. Jetts Creek (E21R-10-BAC), Assessment Unit VAN-E21R\_JET01A10, 1.85 miles, segment begins at the confluence of Boom Swamp with Jetts Creek and continues downstream to the end of the free flowing waters.

8. Portobago Creek (E21R-11-BAC), Assessment Unit VAN-E21R\_PBC01A10, 7.00 miles, segment begins at the confluence of two intermittent tributaries around rivermile 6.66 and extends downstream to the end of the free flowing waters.

9. Mill Creek (E21R-07-BAC), Assessment Unit VAN-E21R\_MIC01A08, 4.58 miles, begins at the confluence with Peumansend Creek at rivermile 6.06 and continues downstream until the tidal waters of Mill Creek.

10. Rappahannock River (E22E-05-BAC), Assessment Unit VAP-E22E\_RPP02A02, 3.35 square miles, the Rappahannock River from the tidal freshwater/oligohaline boundary downstream to rivermile 51.04.

### Public Meeting and Opportunity for Public Comment on Total Maximum Daily Load for Barbours Creek, Craig Creek, Catawba Creek, Little Patterson Creek, Sinking Creek, Lapsely Run, and a Section on the James River

Public informational meeting: A community meeting will be held on Thursday, June 21, 2018, from 6 p.m. until 8 p.m. at the Craig-Botetourt Electric Cooperative and on Tuesday, June 26, 2018, from 6 p.m. until 8 p.m. at the Eagle Rock Library. The addresses are Craig-Botetourt Electric Cooperative, 26198 Craigs Creek Road, New Castle, VA 24127 and Eagle Rock Library, 55 Eagles Nest Drive, Eagle Rock, VA 24085. In the case of inclement weather, the meetings will be rescheduled for June 25, 2018, from 6 p.m. until 8 p.m. at Craig-Botetourt Electric Cooperative and June 28, 2018, from 6 p.m. until 8 p.m. at the Eagle Rock Library. These meetings will be open to the public and all are welcome. For more information, please contact Lucy Baker at email [lucy.baker@deq.virginia.gov](mailto:lucy.baker@deq.virginia.gov) or telephone (540) 562-6718.

Purpose of notice: The Department of Environmental Quality (DEQ) and its contractors, Virginia Tech Biological Systems Engineering, will discuss the results of a water quality study, known as a total maximum daily load (TMDL) for Barbours Creek, Craig Creek, Catawba Creek, Little Patterson Creek, Sinking Creek, Lapsely Run, and a section on the James River in Craig and Botetourt Counties. These streams are listed on the § 303(d) TMDL Priority List and Report as impaired due to violations of Virginia's water quality standards for recreational use and general standard (benthics). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. This is an opportunity for local residents to learn about the condition of

these streams, share information about the area, and become involved in the process of local water quality improvement. A 30-day public comment period on the draft TMDL will follow the meetings, June 21, 2018 to July 25, 2018. Access the draft TMDL document at <http://bit.do/VADEQdraftTMDL>.

Description of study: In Botetourt and Craig Counties, portions of the James River, Catawba Creek, Craig Creek, Barbours Creek, Sinking Creek, Lapsley Run, and Little Patterson Creek are impaired for the "recreational use" water quality standard, meaning there is too much E. Coli bacteria present in these waterbodies. A section of Catawba Creek does not have a healthy and diverse community of aquatic organisms and subsequently does not meet the "aquatic life" water quality standard. Excessive bacteria levels may pose a threat to human health; therefore, a bacteria standard was established to preserve recreational uses in Virginia's waterbodies. This water quality study will report on the sources of bacteria and recommend reductions to meet total maximum daily loads (TMDLs) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacteria levels need to be reduced to the TMDL amount. A component of a TMDL is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDL WLAs.

Stream	Impairment length	Location description	County	Impairment
Craig Creek	7.91 miles	Mainstem from the mouth of Turnpike Creek extending downstream to the Rt. 311 crossing	Craig County	Bacteria
Craig Creek	11.43 miles	Craig Creek from the mouth of Johns Creek downstream to the Barbours Creek confluence	Craig County	Bacteria

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Craig Creek	27.56 miles	Craig Creek mainstem from the mouth of Wilson Branch downstream to the confluence with the James River	Botetourt County	Bacteria	James River	7.63 miles	James River from the confluence of the Jackson and Cowpasture Rivers downstream to the mouth of Stull Run	Botetourt County	Bacteria
Barbours Creek	7.15 miles	Barbours Creek from just downstream of the Rt. 617 and Rt. 611 junction at the mouth of Valley Branch on downstream to its mouth on Craig Creek	Craig County	Bacteria	Sinking Creek	6.42 miles	Sinking Creek mainstem from its mouth on the James River upstream to the Route 697 crossing	Botetourt County	Bacteria
					Catawba Creek	13.46 miles	Catawba Creek from the confluence of Little Catawba Creek downstream to the Town of Fincastle publicly owned treatment works	Botetourt County	Bacteria
Little Patterson Creek	4.24 miles	Little Patterson Creek from just upstream of the Rt. 684 (Sugar Tree Hollow Road) crossing downstream to its confluence with Patterson Creek	Botetourt County	Bacteria	Catawba Creek	3.23 miles	Catawba Creek from Buchanan Branch downstream to the confluence with Little Catawba Creek	Botetourt County	Aquatic Life
Lapsley Run	9.01 miles	Lapsley Run from its confluence with the James River upstream to its headwaters	Botetourt County	Bacteria					

How to comment and participate: The meetings of the TMDL process are open to the public and all interested parties are welcome. Written comments will be accepted through July 25, 2018, and should include the name, address, and telephone number of the person submitting the comments. For more information or to submit written comments, please contact Lucy Baker, Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6718, FAX (540) 562-6725, or email [lucy.baker@deq.virginia.gov](mailto:lucy.baker@deq.virginia.gov).

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## General Notices/Errata

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### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

**Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed:** A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumulatab.pdf>.

**Filing Material for Publication in the *Virginia Register of Regulations*:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.