



# VIRGINIA

## REGISTER OF REGULATIONS

VOL. 35 ISS. 16

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

APRIL 1, 2019

### TABLE OF CONTENTS

<b>Register Information Page</b> .....	1995
<b>Publication Schedule and Deadlines</b> .....	1996
<b>Notices of Intended Regulatory Action</b> .....	1997
<b>Regulations</b> .....	1998
7VAC13-20. Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses (Final).....	1998
9VAC25-720. Water Quality Management Planning Regulation (Final) .....	1999
12VAC35-105. Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (Notice of Objection to Fast-Track Rulemaking Action).....	2001
18VAC60-21. Regulations Governing the Practice of Dentistry (Forms) .....	2002
18VAC60-25. Regulations Governing the Practice of Dental Hygiene (Forms) .....	2003
18VAC60-30. Regulations Governing the Practice of Dental Assistants (Forms).....	2003
22VAC30-60. Grants to Area Agencies on Aging (Final) .....	2004
<b>Guidance Documents</b> .....	2011
<b>General Notices/Errata</b> .....	2014



---

# VIRGINIA REGISTER INFORMATION PAGE

---

**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; **James A. "Jay" Leftwich**, Vice Chair; **Ryan T. McDougle**; **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**, Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Nikki Clemons**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Senior Operations Staff Assistant.

---

# PUBLICATION SCHEDULE AND DEADLINES

---

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

---

## April 2019 through April 2020

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
35:17	March 27, 2019	April 15, 2019
35:18	April 10, 2019	April 29, 2019
35:19	April 24, 2019	May 13, 2019
35:20	May 8, 2019	May 27, 2019
35:21	May 22, 2019	June 10, 2019
35:22	June 5, 2019	June 24, 2019
35:23	June 19, 2019	July 8, 2019
35:24	July 3, 2019	July 22, 2019
35:25	July 17, 2019	August 5, 2019
35:26	July 31, 2019	August 19, 2019
36:1	August 14, 2019	September 2, 2019
36:2	August 28, 2019	September 16, 2019
36:3	September 11, 2019	September 30, 2019
36:4	September 25, 2019	October 14, 2019
36:5	October 9, 2019	October 28, 2019
36:6	October 23, 2019	November 11, 2019
36:7	November 6, 2019	November 25, 2019
36:8	November 18, 2019 ( <b>Monday</b> )	December 9, 2019
36:9	December 4, 2019	December 23, 2019
36:10	December 18, 2019	January 6, 2020
36:11	January 1, 2020	January 20, 2020
36:12	January 15, 2020	February 3, 2020
36:13	January 29, 2020	February 17, 2020
36:14	February 12, 2020	March 2, 2020
36:15	February 26, 2020	March 16, 2020
36:16	March 11, 2020	March 30, 2020
36:17	March 25, 2020	April 13, 2020

\*Filing deadlines are Wednesdays unless otherwise specified.

---

# NOTICES OF INTENDED REGULATORY ACTION

---

## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-110, Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day**. The purpose of the proposed action is to amend and reissue the existing general permit, which expires on August 1, 2021. This general permit regulation establishes limitations, monitoring requirements, and other special conditions for point source discharges of treated domestic sewage from treatment works with a design discharge flow of less than or equal to 1,000 gallons per day to surface waters to maintain surface water quality. Some issues that may need to be addressed as part of the review process include enhancing coordination with the Virginia Department of Health, ensuring that the applicability threshold for this permit is clearly conveyed, confirming that maintenance and monitoring requirements are well explained, and examining opportunities to reduce burden on regulants. Amendments may be identified following the submittal of public comments on this Notice of Intended Regulatory Action and by the technical advisory committee during deliberations of this general permit regulation.

In addition, pursuant to Executive Order 14 (as amended, July 16, 2018) and § 2.2-4007.1 of the Code of Virginia, the State Water Control Board is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

Public Comment Deadline: May 1, 2019.

Agency Contact: Peter Sherman, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4044, FAX (804) 698-4032, or email [peter.sherman@deq.virginia.gov](mailto:peter.sherman@deq.virginia.gov).

VA.R. Doc. No. R19-5864; Filed March 12, 2019, 8:06 a.m.

---

# REGULATIONS

---

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

---

## 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.

---

## TITLE 7. ECONOMIC DEVELOPMENT

### DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY

#### Final Regulation

**REGISTRAR'S NOTICE:** The Department of Small Business and Supplier Diversity is claiming an exemption from the Administrative Process Act in accordance with subdivision 8 of § 2.2-1606 of the Code of Virginia, which exempts regulations implementing certification programs for small, women-owned, and minority-owned businesses and employment services organizations from the Administrative Process Act pursuant to subdivision B 2 of § 2.2-4002 of the Code of Virginia.

**Title of Regulation:** 7VAC13-20. Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses (amending 7VAC13-20-210, 7VAC13-20-220).

**Statutory Authority:** § 2.2-1606 of the Code of Virginia.

**Effective Date:** March 8, 2019.

**Agency Contact:** Jennifer Mayton, General Administrative Manager III, Department of Small Business and Supplier Diversity, 101 North 14th Street, 11th Floor, Richmond, VA 23219, telephone (804) 593-2007, or email jennifer.mayton@sbsd.virginia.gov.

#### Summary:

*The amendments reduce to six months the time period within which a business may (i) reapply for small, women-owned, or minority-owned (SWaM) certification if its certification is revoked or denied or (ii) request a waiver of the reapplication period.*

#### 7VAC13-20-210. Revocation procedure.

##### A. Initiation of the revocation process.

1. The department may, at the request of any state agency or at its own discretion, examine any certified business to verify that it continues to meet the applicable eligibility requirements for certification as a small, women-owned, or minority-owned business.

2. Any individual or firm that believes that a business certified by the department does not qualify under the standards of eligibility for certification may request that the department undertake a review to verify that the certified business continues to meet the eligibility requirements for

certification. Such requests must be written and signed and must contain specific identification of the affected business and the basis for the belief that the business does not meet the eligibility standards. After reviewing the request, the department shall determine whether to conduct a review of the business. The department's decision may not be appealed by the party seeking such verification. Written requests for verification of continued eligibility of a certified business for certification should be sent to the Virginia Department of Small Business and Supplier Diversity at its principal place of business.

##### B. Review procedure.

1. If the department determines to conduct a review of a business's certification, the department shall notify the business in writing that the department is reviewing its certification, explaining the basis for its decision to conduct a review.

2. The department may request records or other documentation from the business, may conduct an onsite visit of the business facilities, and may question other parties during its review.

3. The department may impose a time limit of not less than 15 days in which the business must respond to a request for records or other documentation. A reasonable extension may be given by the department for good cause shown by the business. Requests for time extensions should be made in writing to the department and should specify the length of time for which the extension is being requested and the reason for the request. If the business fails to provide the information in the time requested, the department shall issue a notice of intent to revoke the certification.

4. Upon completion of the review, a written report shall be prepared, which shall include:

- a. A statement of the facts leading to the review;
- b. A description of the process followed in the review;
- c. The findings of the review; and
- d. A conclusion that contains a recommendation for disposition of the matter.

##### C. Revocation process.

1. If during the review procedure a business is found to be ineligible for certification and is issued a notice of intent to revoke its certification, the business shall have the right to an informal fact-finding proceeding as provided in 7VAC13-20-230.

2. A business's certification will remain effective until the issuance of a letter of revocation.
3. If the business does not request an appeal within 10 days of the notice of intent to revoke, as provided in 7VAC13-20-230, a letter of revocation will be issued at the end of such 10-day period.
4. A business whose certification has been revoked may reapply for certification in the same category ~~12~~ six months after the date of revocation.

**7VAC13-20-220. Reapplication.**

A. A business whose application for certification has been denied may reapply for the same category of certification ~~12~~ six months after the date on which the business receives the notice of denial. An applicant denied certification may apply for certification in any other category without delay if otherwise eligible.

B. The applicant may request a waiver of the ~~12-month~~ six-month reapplication period from the department director by submitting a written request for reconsideration and providing a reasonable basis for the waiver. The director or his designee, in his discretion, shall render a final decision regarding the request for reconsideration and waiver within 30 days, which determination shall not constitute a case decision subject to appeal.

VA.R. Doc. No. R19-5854; Filed March 8, 2019, 2:49 p.m.



**TITLE 9. ENVIRONMENT**

**STATE WATER CONTROL BOARD**

**Final Regulation**

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 14 of the Code of Virginia, which exempts adoption, amendment, or repeal of wasteload allocations by the State Water Control Board pursuant to State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) if the board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting.

**Title of Regulation:** **9VAC25-720. Water Quality Management Planning Regulation (amending 9VAC25-720-110, 9VAC25-720-130).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; 33 USC § 1313(e) of the Clean Water Act.

**Effective Date:** May 1, 2019.

**Agency Contact:** Mark Richards, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4392, FAX (804) 698-4032, or email mark.richards@deq.virginia.gov.

**Summary:**

*The amendments to the state's Water Quality Management Planning Regulation (9VAC25-720) include the addition of (i) one new total maximum daily load (TMDL) wasteload allocation in the Chesapeake Bay - Small Coastal - Eastern Shore River Basin and (ii) six new TMDL wasteload allocations in the New River Basin.*

**9VAC25-720-110. Chesapeake Bay -- Small Coastal -- Eastern Shore River Basin.**

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA <sup>1</sup>	Units
<b>EDITOR'S NOTE:</b> Rows numbered 1 through 130 in this TMDL table in subsection A of 9VAC25-720-110 are not amended; therefore, the text of those rows is not set out.							
<u>131.</u>	<u>Rudee Inlet</u>	<u>TMDL for Bacteria and a Proactive Implementation Approach for Dissolved Oxygen Impairment for Rudee Inlet, Virginia Beach, Virginia</u>	<u>Virginia Beach</u>	<u>D07E</u>	<u>Fecal coliform</u>	<u>2.20E+13</u>	<u>counts/yr</u>

Notes:

<sup>1</sup>The total WLA can be increased prior to modification provided that DEQ tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.

<sup>2</sup>There were no point source dischargers in the modeled TMDL area.

<sup>3</sup>This WLA represents only the Virginia portion of the watershed.

# Regulations

**EDITOR'S NOTE:** Subsections B and C of 9VAC25-720-110 are not amended; therefore, the text of those subsections is not set out.

## 9VAC25-720-130. New River Basin.

### A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA <sup>1</sup>	Units
<b>EDITOR'S NOTE:</b> Rows numbered 1 through 53 in this TMDL table in subsection A of 9VAC25-720-130 are not amended; therefore, the text of those rows is not set out.							
<u>54.</u>	<u>Reed Creek</u>	<u>PCB TMDL Development for Reed Creek, the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River</u>	<u>Radford, Montgomery, Giles, Pulaski, Wythe</u>	<u>N11R</u>	<u>PCBs</u>	<u>2,548.2</u>	<u>mg/year</u>
<u>55.</u>	<u>Upper New River</u>	<u>PCB TMDL Development for Reed Creek, the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River</u>	<u>Radford, Montgomery, Giles, Pulaski, Wythe</u>	<u>N08R, N16R</u>	<u>PCBs</u>	<u>1,616.5</u>	<u>mg/year</u>
<u>56.</u>	<u>Peak Creek</u>	<u>PCB TMDL Development for Reed Creek, the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River</u>	<u>Radford, Montgomery, Giles, Pulaski, Wythe</u>	<u>N17R</u>	<u>PCBs</u>	<u>345</u>	<u>mg/year</u>
<u>57.</u>	<u>Walker Creek</u>	<u>PCB TMDL Development for Reed Creek, the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River</u>	<u>Radford, Montgomery, Giles, Pulaski, Wythe</u>	<u>N25R</u>	<u>PCBs</u>	<u>13.6</u>	<u>mg/year</u>
<u>58.</u>	<u>Stony Creek</u>	<u>PCB TMDL Development for Reed Creek, the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River</u>	<u>Radford, Montgomery, Giles, Pulaski, Wythe</u>	<u>N28R</u>	<u>PCBs</u>	<u>7,601.9</u>	<u>mg/year</u>

59.	Lower New River	PCB TMDL Development for Reed Creek, the Upper New River, Peak Creek, Walker Creek, Stony Creek, and the Lower New River	Radford, Montgomery, Giles, Pulaski, Wythe	N18R, N22R, N23R, N24R, N29R, N35R	PCBs	38,868	mg/year
-----	-----------------	--	--	------------------------------------	------	--------	---------

Notes:

<sup>1</sup>The total WLA can be increased prior to modification provided that DEQ tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.

**EDITOR'S NOTE:** Subsection B of 9VAC25-720-130 is not amended; therefore, the text of this subsection is not set out.

VA.R. Doc. No. R19-5780; Filed March 12, 2019, 12:25 p.m.

**TITLE 12. HEALTH**

**STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES**

**Notice of Objection to Fast-Track Rulemaking Action**

**REGISTRAR'S NOTICE:** Pursuant to § 2.2-4012.1 of the Code of Virginia, the State Board of Behavioral Health and Developmental Services has filed a notice of objection to the fast-track rulemaking action published in [35:12 VA.R. 1569-1571 February 4, 2019](#). The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

**Title of Regulation:** **12VAC35-105. Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (amending 12VAC35-105-675).**

**Statutory Authority:** § 37.2-203 of the Code of Virginia.

The State Board of Behavioral Health and Developmental Services is hereby filing a notice of objection to the fast-track rulemaking action for **12VAC35-105, Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services**. The fast-track regulation was published in [Volume 35, Issue 12, pages 1569-1571 of the Virginia Register of Regulations, dated February 4, 2019](#). A 30-day public comment period was provided, and public comment was received through March 6, 2019.

The fast-track regulation was intended to respond to community services board (CSB) concern over timeframes

for documentation of individualized service plans. However, 10 CSBs stated in the public comments that the draft language would interfere with the ability of case managers (support coordinators) to meet the expectations for oversight of services as indicated in the Settlement Agreement between the U.S. Department of Justice and Virginia (United States of America v. Commonwealth of Virginia, Civil Action No. 3:12cv059-JAG) because the language would prevent the case managers (support coordinators) from having the opportunity to review the provider quarterly reports and synthesize the information as needed. Therefore, further discussion of the language is necessary to resolve the concerns.

In accordance with § 2.2-4012.1 of the Code of Virginia, the board is proceeding with the standard promulgation process, using publication of the fast-track regulation as its Notice of Intended Regulatory Action.

**Agency Contact:** Emily Bowles, Legal Coordinator, Office of Licensing, Department of Behavioral Health and Developmental Services, 1220 Bank Street, P.O. Box 1797, Richmond, VA 23218, telephone (804) 225-3281, FAX (804) 692-0066, TTY (804) 371-8977, or email [emily.bowles@dbhds.virginia.gov](mailto:emily.bowles@dbhds.virginia.gov).

VA.R. Doc. No. R19-5541; Filed March 14, 2019, 11:44 a.m.

---

# Regulations

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been 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.

**Title of Regulation: 18VAC60-21. Regulations Governing the Practice of Dentistry.**

**Contact Information:** Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email elaine.yeatts@dhp.virginia.gov.

#### FORMS (18VAC60-21)

~~Application Requirements for Faculty License (rev. 6/2013)~~

~~Application for Registration for Volunteer Practice (rev. 8/2008)~~

~~Requirements and Instructions for a Temporary Resident's License for Persons Enrolled in Advanced Dental Education Programs (rev. 7/2012)~~

~~Application for a Permit to Administer Conscious/Moderate Sedation (rev. 10/2012)~~

~~Application for a Permit to Administer Deep Sedation/General Anesthesia (rev. 10/2012)~~

~~Application for Certification to Perform Cosmetic Procedures (rev. 3/2012)~~

~~Application Requirements for Restricted Dental Volunteer License (rev. 11/2010)~~

~~Oral and Maxillofacial Surgeon Registration of Practice (rev. 9/2010)~~

~~Application for Registration of a Mobile Dental Facility or Portable Dental Operation (rev. 6/2010)~~

~~Oral and Maxillofacial Surgeon Reinstatement of Registration of Practice (rev. 9/2010)~~

~~Instructions for Application for Reactivation of License (rev. 8/2010)~~

~~Instructions for Reinstatement of License (rev. 5/2010)~~

~~Instructions for Filing Online Application for Licensure by Examination or Credentials for Dentists (rev. 9/2012)~~

~~Licensure Procedures for Application for Registration for Volunteer Practice (rev. 5/2008)~~

~~Sponsor Certification for Volunteer Registration (rev. 5/2008)~~

[Application for a Faculty License to Teach Dentistry \(rev. 1/2017\)](#)

[Instructions and Application for Registration for Volunteer Dental Practice \(rev. 6/2017\)](#)

[Instructions and Application for a Temporary Resident's License \(rev. 1/2017\)](#)

[Application for a Temporary Dental Permit \(rev. 5/2017\)](#)

[Application for a Permit to Administer Moderate Sedation \(rev. 12/2018\)](#)

[Application for a Permit to Administer Deep Sedation/General Anesthesia \(rev. 5/2017\)](#)

[Application for Reinstatement of a Permit to Administer Moderate Sedation or Deep Sedation/General Anesthesia \(rev. 12/2018\)](#)

[Application for Certification to Perform Cosmetic Procedures \(rev. 12/2015\)](#)

[Application for Reinstatement of Certification to Perform Cosmetic Procedures \(rev. 12/2015\)](#)

[Instructions and Application for Restricted Volunteer Dental License \(rev. 1/2017\)](#)

[Application for Oral and Maxillofacial Surgeon Registration of Practice \(rev. 12/2015\)](#)

[Application for Reinstatement of Oral and Maxillofacial Surgeon Registration of Practice \(rev. 12/2015\)](#)

[Application for Registration of a Mobile Dental Facility or Portable Dental Operation \(rev. 12/2015\)](#)

[Instructions and Application for Reactivation of Dental License \(rev. 1/2017\)](#)

[Instructions and Application for Reinstatement of Dental License \(rev. 6/2017\)](#)

[Instructions for Filing Online Application for Licensure by Examination or Credentials for Dentists \(rev. 6/2016\)](#)

VA.R. Doc. No. R19-5765; Filed March 8, 2019, 10:25 a.m.

**Forms**

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been 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.

**Title of Regulation: 18VAC60-25. Regulations Governing the Practice of Dental Hygiene.**

**Contact Information:** Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email elaine.yeatts@dhp.virginia.gov.

FORMS (18VAC60-25)

~~Instructions for Filing Online Application for Licensure by Examination or Endorsement for Dental Hygienists (rev. 9/2013)~~

~~Licensure Procedures for Application for Registration for Volunteer Practice (rev. 8/2008)~~

~~Instructions and Application for Reactivation of License (rev. 2/2010)~~

~~Instructions and Application for Reinstatement of License (rev. 5/2010)~~

~~Application Requirements and Application for Restricted Dental Hygiene Volunteer License (rev. 11/2010)~~

~~Sponsor Certification for Volunteer Registration (rev. 5/2008)~~

[Instructions for Filing Online Application for Licensure by Examination or Credentials for Dental Hygienists \(rev. 6/2017\)](#)

[Instructions and Application for Registration for Dental Hygiene Volunteer Practice \(undated\)](#)

[Instructions and Application for Reactivation of Dental Hygienist License \(rev. 1/2017\)](#)

[Instructions and Application for Reinstatement of Dental Hygienist License \(rev. 6/2017\)](#)

[Instructions and Application for Restricted Volunteer Dental Hygiene License \(rev. 1/2017\)](#)

[Application for a Faculty License to Teach Dental Hygiene \(rev. 1/2017\)](#)

[Application for a Temporary Dental Hygiene Permit \(rev. 2/2018\)](#)

VA.R. Doc. No. R19-5747; Filed March 8, 2019, 10:25 a.m.

**Forms**

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been 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.

**Title of Regulation: 18VAC60-30. Regulations Governing the Practice of Dental Assistants.**

**Contact Information:** Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email elaine.yeatts@dhp.virginia.gov.

FORMS (18VAC60-30)

~~Application for Registration to Practice as a Dental Assistant II (rev. 2/2012)~~

~~Application Requirements for Registration to Practice as a Dental Assistant II (rev. 2/2012)~~

~~Form A—Certification of Dental Assisting Education (rev. 2/2012)~~

~~Form B (rev. 10/2011)~~

~~Form C—Certification of Authorization to Perform Expanded Duties as a Dental Assistant (rev. 3/2011)~~

[Instructions and Application for Registration as a Dental Assistant II \(rev. 1/2017\)](#)

[Instructions and Application for Reactivation of Dental Assistant II Registration \(rev. 1/2017\)](#)

[Instructions and Application for Reinstatement of Dental Assistant II Registration \(rev. 1/2017\)](#)

VA.R. Doc. No. R19-5746; Filed March 8, 2019, 10:25 a.m.



**TITLE 22. SOCIAL SERVICES**

**DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Department for Aging and Rehabilitative Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors, and § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of

---

# Regulations

---

federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department for Aging and Rehabilitative Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 22VAC30-60. Grants to Area Agencies on Aging (amending 22VAC30-60-20, 22VAC30-60-30, 22VAC30-60-40, 22VAC30-60-60, 22VAC30-60-140, 22VAC30-60-150, 22VAC30-60-450).

**Statutory Authority:** § 51.5-131 of the Code of Virginia; 42 USC § 3001 et seq.

**Effective Date:** May 1, 2019.

**Agency Contact:** Charlotte Arbogast, Policy Advisor, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7063, FAX (804) 662-7663, TTY (800) 464-9950, or email charlotte.arbogast@dars.virginia.gov.

**Summary:**

*The amendments update (i) citations to the Code of Federal Regulations, (ii) names and locations of area agencies on aging and a federal agency, and (iii) federal documents incorporated by reference.*

**22VAC30-60-20. Definitions.**

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

"Access services" means services associated with access to other services, such as care coordination, information and assistance and transportation services.

"Area" means the planning and service area served by an Area Agency on Aging.

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 USC § 3001 et seq.) and incorporated by reference in this chapter, which has submitted an approved Area Plan and is designated by contract with the Virginia Department for Aging and Rehabilitative Services to develop and administer its area plan as approved for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for Aging and Rehabilitative Services, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Commissioner" means the Commissioner of the Virginia Department for Aging and Rehabilitative Services.

"Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider ~~which~~ that adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of services, or (ii) a violation of the regulations, policies or procedures ~~which~~ that govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term care services provided in the community who is at least 60 years of age.

"Complaint counseling" means information, guidance, and support to enable the complainant or the recipient of services to attempt to resolve the complaint or concern himself; if he so chooses or is able, by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.

"Contract" means the document of agreement wherein the Virginia Department for Aging and Rehabilitative Services designates the contractor as the duly funded Area Agency on Aging, consistent with the federally approved State Plan for Aging Services, in consideration for which the area agency assures its specific performance of functions and services pursuant to the approved area plan.

"Frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"Government-sponsored area agencies" or "area agencies sponsored by governmental entities" means area agencies created as units of general purpose local governments, area agencies created through the joint exercise of powers, and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District Three Governmental Cooperative trading as District Three Senior Services, New River Valley Agency on Aging, Alexandria Agency on Aging, Arlington Agency on Aging, Fairfax Area Agency on Aging, Loudoun County Area Agency on Aging, Prince William Area Agency on Aging, Rappahannock-Rapidan Community Services Board, Jefferson Area Board for Aging, Lake Country Area Agency on Aging, and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as free-standing joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.

"Grant" means an award of financial assistance in the form of money, or property instead of money, by the Virginia Department for Aging and Rehabilitative Services to an Area Agency on Aging. The term includes such financial assistance when provided by contract.

"Grantee" or "contractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Virginia Department for Aging and Rehabilitative Services for the use of the funds provided.

"Greatest economic need" means the need resulting from an income level at or below the poverty level established by the federal Office of Management and Budget.

"Greatest social need" means the need caused by noneconomic factors, which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that caused by racial or ethnic status, ~~which restricts~~ that restrict an individual's ability to perform normal daily tasks or ~~which threatens~~ threaten such individual's capacity to live independently.

"In-home services" means (i) ~~homemaker/personal homemaker services~~, (ii) personal care services, ~~(iii)~~ (iii) chore services, ~~(iii)~~ (iv) home health services, ~~(iv)~~ (v) checking services, ~~(v)~~ (vi) residential repair and renovation services, and ~~(vi)~~ (vii) in-home respite care for families and adult day care as a respite service for families.

"Long-term care facility" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including, ~~but not limited to~~, nursing homes licensed by the Department of Health, assisted living facilities licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Behavioral Health and Developmental Services.

"Long-term care services" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both, (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.

"Office of the State Long-Term Care Ombudsman" means the program administered and funded by the Virginia Department for Aging and Rehabilitative Services, ~~which that~~ serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.

"Older person" or "elderly" or "older individual" means any individual who is 60 years of age or older.

"Planning and service area ~~(PSA)~~" or "PSA" means a geographic area of the Commonwealth ~~which that~~ is designated for purposes of planning, development, delivery, and overall administration of services under an area plan. Unless otherwise exempted, such planning and service areas shall be coterminous with the planning districts established by

the Virginia Department of Planning and Budget, pursuant to §§ 2.2-1501 and 15.2-4202 of the Code of Virginia.

"Private nonprofit Area Agency on Aging" means those area agencies created independently of a local governing body ~~or bodies~~. They include Mountain Empire Older Citizens, Appalachian Agency for Senior Citizens, League of Older Americans trading as LOA-Area Agency on Aging, Valley Program for Aging Services, Shenandoah Area Agency on Aging, Central Virginia ~~Area Agency on Aging~~ Alliance for Community Living, Southern Area Agency on Aging, Piedmont Senior Resources Area Agency on Aging, Senior Connections, The Capital Area Agency on Aging, Rappahannock Area Agency on Aging, Bay Aging, Southeastern Virginia Area-wide Model Program trading as Senior Services of Southeastern Virginia, Peninsula Agency on Aging, and Eastern Shore Area Agency on Aging/Community Action Agency.

"Subgrant" means an award of financial assistance in the form of money, or property instead of money, made under a grant by an Area Agency on Aging to an eligible subgrantee. The term includes such financial assistance when provided by contract.

"Subgrantee" or "subcontractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to an Area Agency on Aging for the use of the funds provided.

"Substate Long-Term Care Ombudsman Program" means an organizational unit within an Area Agency on Aging, which the Virginia Department for Aging and Rehabilitative Services designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

"Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.

## **22VAC30-60-30. Applicability of other regulations.**

Several other regulations apply to all activities conducted with Title III funds. These include, ~~but are not limited to~~:

1. 45 CFR Part 1321: Grants to State and Community Programs on Aging;
2. 45 CFR Part ~~74~~ 75: Uniform Administrative Requirements ~~for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations; and Certain Grants and Agreements with States, Local Government and Indian Tribal Governments, Cost Principles, and Audit Requirements for HHS Awards;~~ and

# Regulations

3. 45 CFR Part 84: Nondiscrimination on the Basis of Handicap in Programs ~~and~~ or Activities Receiving Federal Financial Assistance.

Part II  
Area Agencies on Aging

**22VAC30-60-40. Planning and service areas.**

A. The following are currently accepted as Virginia's Planning and Service Areas for purposes of execution of the provisions of 42 USC § 3001 et seq. (the "Older Americans Act") and the federal regulations promulgated thereunder (45 CFR Part 1321). The respective Area Agencies on Aging, under contract with the Virginia Department for Aging and Rehabilitative Services as of the date of ~~these regulations~~ this chapter, are named ~~herein~~ in this section for identification but may be subject to change, pursuant to 22VAC30-60-50.

<p>Planning and Service Area 1 Mountain Empire Older Citizens, Inc Wise, Virginia Serves Lee, Scott, and Wise counties; the City of Norton.</p>
<p>Planning and Service Area 2 Appalachian Agency for Senior Citizens, Inc. Richlands, Virginia Serves Buchanan, Dickenson, Russell, and Tazewell counties.</p>
<p>Planning and Service Area 3 District III Governmental Cooperative Marion, Virginia Serves Bland, Carroll, Grayson, Smyth, Washington, and Wythe counties; the cities of Bristol and Galax.</p>
<p>Planning and Service Area 4 New River Valley Agency on Aging Pulaski, Virginia Serves Floyd, Giles, Montgomery, and Pulaski counties; the City of Radford.</p>
<p>Planning and Service Area 5 League of Older Americans, Inc. trading as LOA-Area Agency on Aging, Roanoke, Virginia Serves Alleghany, Botetourt, Craig, and Roanoke counties; the cities of Covington, Roanoke, and Salem.</p>
<p>Planning and Service Area 6 Valley Program for Aging Services, Inc. Waynesboro, Virginia Serves Augusta, Bath, Highland, Rockbridge, and Rockingham counties; the cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro.</p>

<p>Planning and Service Area 7 Shenandoah Area Agency on Aging, Inc. Front Royal, Virginia Serves Clarke, Frederick, Page, Shenandoah, and Warren counties; the City of Winchester.</p>
<p>Planning and Service Area 8A City of Alexandria (Alexandria Agency on Aging) Alexandria, Virginia Serves the City of Alexandria.</p>
<p>Planning and Service Area 8B Arlington County (Arlington Agency on Aging) Arlington, Virginia Serves Arlington County.</p>
<p>Planning and Service Area 8C Fairfax County (Fairfax Area Agency on Aging) Fairfax, Virginia Serves Fairfax County; the cities of Fairfax and Falls Church.</p>
<p>Planning and Service Area 8D Loudoun County (Loudoun County Area Agency on Aging) Leesburg, Virginia Serves Loudoun County.</p>
<p>Planning and Service Area 8E Prince William County (Prince William Area Agency on Aging) Manassas, Virginia Serves Prince William County; the cities of Manassas and Manassas Park.</p>
<p>Planning and Service Area 9 Rappahannock-Rapidan Community Services Board Culpeper, Virginia Serves Culpeper, Fauquier, Madison, Orange, and Rappahannock counties.</p>
<p>Planning and Service Area 10 Jefferson Area Board for Aging Charlottesville, Virginia Serves Albemarle, Fluvanna, Greene, Louisa, and Nelson counties; the City of Charlottesville.</p>
<p>Planning and Service Area 11 <del>Central Virginia Area Agency on Aging</del> <u>Alliance for Community Living, Inc.</u> Lynchburg, Virginia Serves Amherst, Appomattox, Bedford, and Campbell counties; the cities of Bedford and Lynchburg.</p>
<p>Planning and Service Area 12 Southern Area Agency on Aging, Inc. Martinsville, Virginia Serves Franklin, Henry, Patrick, and Pittsylvania counties; the cities of Danville and Martinsville.</p>

<p>Planning and Service Area 13                  Lake Country Area Agency on Aging                  South Hill, Virginia                  Serves Brunswick, Halifax, and Mecklenburg counties.</p>
<p>Planning and Service Area 14                  Piedmont Senior Resources Area Agency on Aging, Inc.                  Burkeville Farmville, Virginia                  Serves Amelia, Buckingham, Charlotte, Cumberland,                  Lunenburg, Nottoway, and Prince Edward counties.</p>
<p>Planning and Service Area 15                  Senior Connections, The Capital Area Agency on                  Aging, Inc.                  Richmond, Virginia                  Serves Charles City, Chesterfield, Goochland, Hanover,                  Henrico, New Kent, and Powhatan counties; the City of                  Richmond.</p>
<p>Planning and Service Area 16                  Rappahannock Area Agency on Aging, Inc.                  Fredericksburg, Virginia                  Serves Caroline, King George, Spotsylvania, and                  Stafford counties; the City of Fredericksburg.</p>
<p>Planning and Service Area 17/18                  Bay Aging                  Urbanna, Virginia                  Serves Essex, Gloucester, King and Queen, King                  William, Lancaster, Mathews, Middlesex,                  Northumberland, Richmond, and Westmoreland                  counties.</p>
<p>Planning and Service Area 19                  Crater District Area Agency on Aging                  Petersburg, Virginia                  Serves Dinwiddie, Greensville, Prince George, Surry,                  and Sussex counties; the cities of Colonial Heights,                  Emporia, Hopewell, and Petersburg.</p>
<p>Planning and Service Area 20                  Southeastern Virginia Areawide Model Program, Inc.                  trading as Senior Services of Southeastern Virginia                  Norfolk, Virginia                  Serves Isle of Wight and Southampton counties; the cities                  of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk,                  and Virginia Beach.</p>
<p>Planning and Service Area 21                  Peninsula Agency on Aging, Inc.                  Newport News, Virginia                  Serves James City and York counties; the cities of                  Hampton, Newport News, Poquoson, and Williamsburg.</p>
<p>Planning and Service Area 22                  Eastern Shore Area Agency on Aging/Community                  Action Agency, Inc.                  Onancock, Virginia                  Serves Accomack and Northampton counties.</p>

B. Pursuant to 42 USC § 3025(a)(1)(E) and (b)(1) of the Older Americans Act, as amended, the Department for Aging and Rehabilitative Services, in its discretion, has established that the boundaries for planning and service areas (PSAs) will be coterminous with the boundaries of the planning districts established by the Department of Planning and Budget, except that:

1. Within the boundaries of Planning District 8, the Department for Aging and Rehabilitative Services has established five planning and service areas with the concurrence of the local governing bodies; ~~and~~.
2. The Department for Aging and Rehabilitative Services has combined Planning Districts 17 and 18 into one planning and service area with the concurrence of the local governing bodies.
3. Within the boundaries of Planning District 23, the Department for Aging and Rehabilitative Services has established two planning and service areas that existed from the former Planning Districts 20 and 21.

C. These boundaries shall be maintained until such time as there is good cause, shown by clear and convincing evidence, to create a new planning and service area.

**22VAC30-60-60. Termination of the designation of an Area Agency on Aging.**

A. The contractual designation of an incumbent Area Agency on Aging will be renewed annually contingent upon approval of and performance on the Area Plan for Aging Services.

B. The contractual designation of an Area Agency on Aging will be withdrawn by the Commissioner of the Virginia Department for Aging and Rehabilitative Services for any of the following:

1. Upon a written request by the Area Agency on Aging that the commissioner terminate its contractual designation.
2. Upon a request by formal resolution of all the city councils and county boards of supervisors within the planning and service area of the Area Agency on Aging that the commissioner designate and contract with another Area Agency on Aging, whose area plan is approved.
3. Upon a finding by the Virginia Department for Aging and Rehabilitative Services, after reasonable notice and opportunity for a hearing, pursuant to 45 CFR 1321.35, that:
  - a. An area plan or plan amendment is not approved.
  - b. An area agency does not meet the requirements of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act, as amended; the Code of Virginia; or the policies and

---

# Regulations

---

regulations of the Department for Aging and Rehabilitative Services.

c. There is substantial failure in the provisions or administration of an approved area plan to comply with one or more of the provisions of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act as amended; the Code of Virginia; regulations of the Department for Aging and Rehabilitative Services; licensing requirements of the Commonwealth of Virginia; and local ordinances.

d. The activities of the Area Agency on Aging are inconsistent with the statutory mission in the Older Americans Act, as amended, and its implementing regulations.

4. Upon reasonable application of the terms and conditions stated in the contract. Contractual obligations, failure of fulfillment of which shall lead to termination of the contract, include, ~~but are not limited to,~~ the following:

a. Failure to correct deficiencies disclosed in an audit report from an audit conducted as required by the Department for Aging and Rehabilitative Services pursuant to 22VAC30-60-450;

b. Failure to report promptly to the Virginia Department for Aging and Rehabilitative Services and to the appropriate law-enforcement officials any theft, embezzlement, or unlawful use of funds received from the Department for Aging and Rehabilitative Services;

c. Failure to submit reports ~~which that~~ meet the requirements (including due dates) established by the Virginia Department for Aging and Rehabilitative Services; and

d. Deliberate falsification of information in such reports.

5. Upon a decision pursuant to 22VAC30-60-50 creating a new Area Agency on Aging or new planning and service area, to the extent that such a decision makes performance on the existing contract impossible.

C. Upon notice by the Virginia Department for Aging and Rehabilitative Services of its intent to terminate, the Area Agency on Aging, within 15 days from receipt of the notice, may request and shall be provided an informal fact-finding conference pursuant to ~~the Virginia Administrative Process Act~~, § 2.2-4019 of the Code of Virginia. If, from such a conference, a finding is made that one of the conditions set forth in subdivision B 4 of this section applies or that a term or condition in the contract so permits, the contractual designation shall be withdrawn. In the alternative, if no request for such hearing has been made by 15 days from receipt of the notice, the contractual designation shall terminate 30 days after receipt of the notice.

D. If the Commissioner of the Department for Aging and Rehabilitative Services has reason to believe that one or more of the reasons for termination constitutes an emergency endangering the health, safety, or welfare of citizens or seriously threatens the financial or programmatic continuation of services required by the Area Plan for Aging Services, the commissioner may order the immediate suspension of the designation of the Area Agency on Aging, in advance of a hearing, and shall state in writing the reasons therefor.

E. When the contractual designation of an Area Agency on Aging is withdrawn, the commissioner, to assure continued conduct of functions and provision of services to the extent feasible, shall contractually designate a new Area Agency on Aging in a timely manner, or, for a period of up to 180 days from the withdrawal, the Virginia Department for Aging and Rehabilitative Services, itself, may perform the responsibilities of the Area Agency on Aging or may assign the responsibilities of the area agency to another agency in the planning and service area. With the consent of the ~~Commissioner~~ Administrator of the U.S. Administration ~~on Aging for Community Living~~, the Commissioner of the Virginia Department for Aging and Rehabilitative Services may extend the 180-day period.

## **22VAC30-60-140. Chart of accounts.**

Provided that an Area Agency on Aging is able to comply with the nine standards for financial management systems in U.S. Office of Management and Budget (OMB) Circulars A-102 and A-110, as applicable, and the financial management standards contained in 45 CFR ~~74.21~~ 75.302, an Area Agency on Aging shall adopt its own account structure based on its own external and internal reporting requirements.

## **22VAC30-60-150. Elements of an acceptable financial management system.**

A. An Area Agency on Aging shall maintain records and make reports in such form and containing such information as may be required by the Virginia Department for Aging and Rehabilitative Services. An Area Agency on Aging shall maintain such accounts and documents as will serve to permit expeditious determination of the status of funds and the levels of services provided under the approved area plan, including the disposition of all moneys received from the Virginia Department for Aging and Rehabilitative Services, and the nature and amount of all charges claimed against such funds.

B. An Area Agency on Aging shall keep records that identify adequately the source and application of funds for ~~grant/contract supported~~ grant-supported or contract-supported activities and for activities under subcontract. At a minimum, these records shall contain information pertaining to the ~~grant/contract~~ grant or contract, subcontracts, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a governmental entity, liabilities.

C. Special ~~grant/contract~~ grant or contract conditions more restrictive than those prescribed in 45 CFR Part 74 75 may be imposed by the Virginia Department for Aging and Rehabilitative Services on an Area Agency on Aging, as needed, when the Virginia Department for Aging and Rehabilitative Services has determined that the Area Agency on Aging:

1. Is financially unstable;
2. Has a history of poor performance; or
3. Has a management system ~~which~~ that does not meet the standards of 45 CFR Part 74 75.

D. For the purpose of determining the adequacy of an area agency's financial management system, the Virginia Department for Aging and Rehabilitative Services shall consider the following records maintained on a current basis to be minimum:

1. General journal;
2. General ledger;
3. Separate or combined cash receipts and disbursements journal or voucher register;
4. Payroll register (if the agency has more than 10 employees);
5. Fixed assets register for all owned and leased property and equipment;
6. In-kind ~~journal/worksheets~~ journal or worksheets;
7. Project cost control subsidiary ~~ledger/worksheets~~ ledger or worksheets; and
8. Bank statements reconciled within 30 calendar days of receipt.

E. ~~Grantees/contractors~~ Grantees or contractors of the Virginia Department for Aging and Rehabilitative Services may substitute the equivalent kind of records for those specified ~~above~~ in subsection D of this section, provided the substitute records meet the function for which those records have been required.

F. An Area Agency on Aging shall have procedures for determining the reasonableness, allowability, and allocability of all contract costs.

Article 10  
Audits

**22VAC30-60-450. Area Agencies on Aging retain own independent public accountants.**

A. Each Area Agency on Aging shall retain its own public accountant, who is sufficiently independent of those who authorize the expenditure of federal funds, to produce unbiased opinions, conclusions, or judgments. The auditor shall meet the independence criteria established in

~~Amendment No. Chapter 3~~ of the Government Auditing Standards, as amended, (the Yellow Book) published by the U.S. General Accounting Office.

B. In arranging for audit services, an Area Agency on Aging shall follow procurement standards for retaining professional services. Small audit firms and audit firms owned and controlled by minority individuals shall have the maximum practical opportunity to participate in audit contracts awarded.

C. In soliciting and retaining auditors to conduct the annual audit, an Area Agency on Aging must make specific reference in their request for proposals and any resulting subcontract that the auditor shall be required to conform the audit to the requirements in Audits of States, Local Governments, and Nonprofit Organizations, OMB Circular A-133; and the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, OMB Circular A-110, as applicable. This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Virginia Department for Aging and Rehabilitative Services and quality assurance review, access to audit work papers, plan for corrective action, and resolution of audit findings.

D. The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Virginia Department for Aging and Rehabilitative Services or a federal supervisory agency, either before or after a reasonable time after a draft or final report was issued, because it did not meet the Virginia Department for Aging and Rehabilitative Services' standards, the AICPA Standards, or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

DOCUMENTS INCORPORATED BY REFERENCE  
(22VAC30-60)

~~OMB Circular A 110, (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non Profit Organizations, November 19, 1993.~~

~~Government Auditing Standards, Amendment No. 3, January 2002.~~

~~OMB Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations, Revised 6/24/97.~~

[OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments, revised October 7, 1994, and further amended August 29, 1997](#)

[OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of](#)

---

# Regulations

---

[Higher Education, Hospitals, and Other Non-Profit Organizations, revised November 19, 1993, amended September 30, 1999](#)

[GAO-03-673G, Government Auditing Standards \(the Yellow Book\), Chapter 3, 2011 Revision](#)

[OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, revised June 27, 2003, and June 26, 2007](#)

VA.R. Doc. No. R19-5741; Filed March 11, 2019, 3:43 p.m.

---

# GUIDANCE DOCUMENTS

---

## PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the initial or additional public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional comment period.

The following guidance documents have been submitted for publication by the listed agencies to initiate or extend a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

### STATE BOARD OF SOCIAL SERVICES

Title of Document: [Division of Child Support Enforcement Program Manual.](#)

Public Comment Deadline: May 1, 2019.

Effective Date: May 2, 2019.

Agency Contact: Karin Clark, Legislative and Regulatory Affairs, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7017, or email [karin.clark@dss.virginia.gov](mailto:karin.clark@dss.virginia.gov).

### STATE WATER CONTROL BOARD

Title of Document: [Monitoring and Assessment of Lakes and Reservoirs.](#)

Public Comment Deadline: May 1, 2019.

Effective Date: May 2, 2019.

Agency Contact: Cindy Berndt, Director, Office of Regulatory Affairs, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, or email [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

### BOARD OF VETERINARY MEDICINE

Titles of Documents:

[Guidance for Continuing Education \(CE\) Audits and Sanctioning for Failure to Complete CE.](#)

[Disposition of Cases Involving Applicants Practicing Veterinary Technology Prior to Licensure.](#)

[Guidance for Disposition of Cases Involving Failure of Veterinarian-in-Charge to Notify Board of Veterinary Establishment Closure.](#)

[Virginia Board of Veterinary Medicine Bylaws.](#)

Public Comment Deadline: May 1, 2019.

Effective Date: May 2, 2019.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

## ANNUAL LIST

Section 2.2-4103.1 of the Code of Virginia requires annual publication in the Virginia Register of Regulations of guidance document lists from state agencies. A guidance document is defined as "...any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations..." Agencies are required to maintain a complete, current list of all guidance documents and make the full text of such documents available to the public.

Generally, the format for the guidance document list is: document number (if any), title of document, date issued or last revised, and citation of Virginia Administrative Code regulatory authority or Code of Virginia statutory authority. Questions concerning documents or requests for copies of documents should be directed to the contact person listed by the agency.

### DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Copies of the following documents may be viewed during regular work days from 8:15 a.m. until 4:30 p.m. in the offices of the Virginia Department for the Deaf and Hard of Hearing (VDDHH), 1602 Rolling Hills Drive, Suite 203, Richmond, VA 23229-5012. Copies may be obtained free of charge by contacting Leslie G. Hutcheson at the same address, telephone (804) 662-9703 (V/TTY), FAX (804) 662-9718, or email [leslie.hutcheson@vddhh.virginia.gov](mailto:leslie.hutcheson@vddhh.virginia.gov).

Some of the documents may be available to be downloaded from the VDDHH homepage at <http://www.vddhh.org>.

Questions regarding interpretation or implementation of these documents may also be directed to Leslie Hutcheson.

#### Guidance Documents:

VDDHH Policies and Procedures implementing 22VAC20-20 (Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Assistive Technology Devices); updated annually

VDDHH Policies and Procedures implementing 22VAC20-30 (Regulations Governing Interpreter Services for the Deaf and Hard of Hearing); updated annually

Directory of Qualified Interpreters, implementing 22VAC20-30 (Regulations Governing Interpreter Services for the Deaf and Hard of Hearing); updated monthly

Virginia Quality Assurance Screening Applicant Packet, implementing 22VAC20-30 (Regulations Governing Interpreter Services for the Deaf and Hard of Hearing); updated annually

### DEPARTMENT OF THE TREASURY

Copies of documents may be viewed during regular work days from 8:30 a.m. until 4:30 p.m. in the office of the Department of the Treasury, James Monroe Building, 3rd Floor, 101 North 14th Street, Richmond, VA 23219. Copies may be obtained free of charge.

Many agency documents and forms may be found on Treasury's website at <https://www.trsvirginia.gov/About-Us/Forms>.

General questions regarding these documents may be directed to William Watt, telephone (804) 371-6242, FAX (804) 225-3187, or email [william.watt@trsvirginia.gov](mailto:william.watt@trsvirginia.gov).

Questions regarding specific Treasury divisions should be directed to:

Debt Management: Janet Aylor, telephone (804) 371-6006 or FAX (804) 225-3187.

Cash Management and Investments: Judy Milliron, telephone (804) 225-3167, FAX (804) 225-3478, or email [judy.milliron@trsvirginia.gov](mailto:judy.milliron@trsvirginia.gov). Division documents and forms related to the Local Government Investment Pool can be found at <https://www.trsvirginia.gov/Cash-Management-Investments/LGIP> and for State Non-Arbitrage Program at <https://www.vasnap.com/forms-and-documents.aspx>.

Operations: Kristin Reiter, telephone (804) 225-3240, FAX (804) 225-3187, or email [kristin.reiter@trsvirginia.gov](mailto:kristin.reiter@trsvirginia.gov). Division documents and forms can be found at <https://www.trsvirginia.gov/Operations>.

Risk Management: Brian Parker, telephone (804) 225-4620, FAX (804) 371-8400, or email [brian.parker@trsvirginia.gov](mailto:brian.parker@trsvirginia.gov). Division documents and forms can be found at <https://www.trsvirginia.gov/Risk-Management>.

Unclaimed Property: William Dadmun, telephone (804) 225-2547, FAX (804) 786-4653, or email [william.dadmun@trsvirginia.gov](mailto:william.dadmun@trsvirginia.gov). Division documents and forms can be found at <https://www.vamoneysearch.org/Report/Forms>.

#### Guidance Documents:

6324, General Account Investment Guidelines, <https://www.trsvirginia.gov/media/1fa434b7-87bf-487a-9cec-df5f4fc95af8/koMNCQ/CMI/GenAcctInvstPolicy.pdf>

6325, Debt Calendar, <https://www.trsvirginia.gov/media/9cd903d6-928e-44b6-8f0c-dd745aecca50/F44OvQ/Debt/General/debtcalendar.pdf>

6326, Tobacco Indemnification and Community Revitalization Endowment Investment Guidelines: Taxable, [https://www.trsvirginia.gov/media/209ae9ff-09ec-4ba4-bd1f-248297b0da66/JifY\\_Q/CMI/TICR\\_TaxableInvPolicy.pdf](https://www.trsvirginia.gov/media/209ae9ff-09ec-4ba4-bd1f-248297b0da66/JifY_Q/CMI/TICR_TaxableInvPolicy.pdf)

6327, Tobacco Indemnification and Community Revitalization Endowment Investment Guidelines: Tax-Exempt, [https://www.trsvirginia.gov/media/5c8079ff-26f3-4f65-9555-921ca9d8b1a9/bA6zBw/CMI/TICR\\_Tax-ExemptInvPolicy.pdf](https://www.trsvirginia.gov/media/5c8079ff-26f3-4f65-9555-921ca9d8b1a9/bA6zBw/CMI/TICR_Tax-ExemptInvPolicy.pdf)

6328, Code of Ethics, <https://www.trsvirginia.gov/media/965cc9c4-e7e0-450e-a896-604e539505ce/1foDVA/GM/Policies/Ethics.pdf>

6329, Debt Capacity Advisory Committee Reports, <https://www.trsvirginia.gov/Boards-Authorities/Debt-Capacity-Advisory-Committee>

### **VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM**

Copies of the following document may be viewed or obtained on regular work days from 8:30 a.m. until 5 p.m. at the office of the Virginia Birth-Related Neurological Injury Compensation Program, 7501 Boulders View Drive, Suite 201, Richmond, VA 23225, telephone (804) 330-2471, or FAX (804) 330-3054. There are no costs associated with obtaining copies of the document listed. The documents may be viewed using the link provided.

Please address any questions concerning the guidance document to George Deebo, Executive Director, telephone (804) 330-2471 or email [gdeebo@vabirthinjury.com](mailto:gdeebo@vabirthinjury.com).

#### **Guidance Document:**

6252, Administrative Guidance Regarding Changes in the Program's Manner of Processing Claims, 8/15/2017

### **VIRGINIA INDIGENT DEFENSE COMMISSION**

Copies of the following documents may be viewed on regular work days from 8 a.m. until 5 p.m. in the office of the Virginia Indigent Defense Commission, 1604 Santa Rosa Road, Suite 200, Richmond, VA 23229. Free copies may be accessed and downloaded from the commission's website at <http://www.indigentdefense.virginia.gov>.

Questions regarding interpretation and implementation of these documents may be directed to Maria Jankowski, Deputy Executive Director, 1604 Santa Rosa Road, Suite 200, Richmond, VA 23229, telephone (804) 662-7249 ext. 144, FAX (804) 662-7359, or email [mjankowski@adm.idc.virginia.gov](mailto:mjankowski@adm.idc.virginia.gov).

#### **Guidance Documents:**

Court Appointed Attorney Initial Certification Application in Non-Capital Cases, updated Court Appointed Attorney Certification Application: Counsel in Capital Cases, and Waiver attached

Court Appointed Attorney Initial Certification Application for Current Prosecutor in Non-Capital Cases

Court Appointed Attorney Certification Renewal Application

Standards of Practice for Indigent Defense Counsel

Standards of Practice Complaint Process (guidelines for removal of an attorney from the certified counsel list)

Standards of Practice Complaint Form

---

# GENERAL NOTICES/ERRATA

---

## ALCOHOLIC BEVERAGE CONTROL AUTHORITY

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Alcoholic Beverage Control Authority conducted a small business impact review of **3VAC5-50, Retail Operations**, and determined that this regulation should be retained in its current form. The Alcoholic Beverage Control Authority is publishing its report of findings dated February 28, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation continues to be needed as it outlines definitions, restrictions, and qualifications that govern the practices for retail licensees. The agency did not receive any complaint or comment from the public during the periodic review. The regulation is easy to understand and clearly written. The regulation is not redundant nor does it conflict with other federal or state regulations. The regulation is not complex. The last periodic review was completed in 2012, and there have not been any significant changes in technology, economic conditions, or other factors in the area affected by the regulation. No small business impact has been identified.

Contact Information: LaTonya D. Hucks-Watkins, Legal Liaison, Alcoholic Beverage Control Authority, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4698, FAX (804) 213-4574, or email [latonya.hucks@abc.virginia.gov](mailto:latonya.hucks@abc.virginia.gov).

## BOARD FOR THE BLIND AND VISION IMPAIRED

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Board for the Blind and Vision Impaired conducted a small business impact review of **22VAC45-51, Regulations Governing Provision of Services in Vocational Rehabilitation**, and determined that this regulation should be retained in its current form. The Board for the Blind and Vision Impaired is publishing its report of findings dated March 4, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

22VAC45-51 is required for the Department for the Blind and Vision Impaired to comply with requirements set forth in regulations of the U.S. Department of Education, 34 CFR Parts 361 and 363. The agency has not received any complaint or comment concerning the regulation. The regulation is not complex; it is easy to read and understand. The regulation was last reviewed and amended in 2016 and does not conflict with other state or federal regulation. There are no substantial changes in technology, economic conditions, or other factors that impact the importance of implementation of the regulation. Economic impact on small business generally is negligible because the regulation

pertains specifically to the provision of vocational rehabilitation services to individuals who are blind, vision impaired, and deafblind. Additionally, members of the small business community have opportunity to make public comment during periodic review and annually as part of Department for the Blind and Vision Impaired's conduct of public meetings.

Contact Information: Susan K. Davis, Regulatory Coordinator, Department for the Blind and Vision Impaired, 401 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3157, or email [susan.davis@dbvi.virginia.gov](mailto:susan.davis@dbvi.virginia.gov).

## COMMONWEALTH TRANSPORTATION BOARD

### Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commonwealth Transportation Board is conducting a periodic review and small business impact review of each listed regulation. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

#### 24VAC30-11, Public Participation Guidelines

#### 24VAC30-91, Subdivision Street Requirements

#### 24VAC30-92, Secondary Street Acceptance Requirements

#### 24VAC30-155, Traffic Impact Analysis Regulations

#### 24VAC30-160, Rules and Regulations to Comply with the Setoff Debt Collection Act

#### 24VAC30-325, Urban Maintenance and Construction Policy

#### 24VAC30-380, Public Hearings for the Location and Design of Highway Construction Projects

#### 24VAC30-610, List of Differentiated Speed Limits

The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to each regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The public comment period begins April 1, 2019, and ends April 26, 2019.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments

may also be sent to Steven Jack, Policy Regulatory Manager, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, email [steven.jack@vdot.virginia.gov](mailto:steven.jack@vdot.virginia.gov).

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of the review will be posted on the Virginia Regulatory Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Chesapeake Bay Watershed Improvement Plan Release

By April 12, 2019, the Virginia Office of Natural Resources, through the Department of Environmental Quality, will announce the release of Virginia's Draft Phase III Watershed Implementation Plan (draft Phase III WIP) for meeting the Chesapeake Bay total maximum daily load for public review and comment. The release of the draft Phase III WIP and its associated public review and comment period will be announced by posting of general notices on the Virginia Regulatory Town Hall. Direct questions to the listed staff person.

Contact Information: James Davis-Martin, Environmental Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4298, or email [james.davis-martin@deq.virginia.gov](mailto:james.davis-martin@deq.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Environmental Quality conducted a small business impact review of **9VAC15-70, Small Renewable Energy Projects (Combustion) Permit by Rule**, and determined that this regulation should be retained in its current form. The Department of Environmental Quality is publishing its report of findings dated February 27, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation is needed to provide a permitting process for small renewable energy combustion projects. No comments were received during the public comment period. The regulation details the permitting process, and a small renewable energy combustion project is deemed to operate under the permit by rule (PBR) provision if it meets the requirements of the regulation. Other necessary environmental permits will need to be obtained in addition to the PBR.

This regulation does not overlap, duplicate, or conflict with federal or state law or regulations. This regulation was adopted in 2013, and in 2017 the definition of a small

renewable combustion energy project was amended to conform to Chapter 368 of the 2017 Acts of Assembly.

This regulation provides a process for seeking approval to operate a small renewable combustion energy project with a rated capacity greater than five megawatts and less than 20 megawatts. PBR application reviews are required to be conducted within 90 days of receipt of a complete PBR application. The review process for these projects occurs in lieu of review of the project by the State Corporation Commission.

Contact Information: Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email [melissa.porterfield@deq.virginia.gov](mailto:melissa.porterfield@deq.virginia.gov).

## BOARD OF HEALTH PROFESSIONS

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Board of Health Professions conducted a small business impact review of **18VAC75-20, Regulations Governing Practitioner Self-Referral**, and determined that this regulation should be retained in its current form. The Board of Health Professions is publishing its report of findings dated March 11, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation is necessary for public protection since there is a statutory mandate for it. There have been no complaints or public comments on the content of the regulation. The regulation sets out criteria and a process for seeking advisory opinions or exceptions. Since 1996, the board has issued 15 advisory opinions, all of which are available for review on the board's website (<http://www.dhp.virginia.gov/bhp>). No applications have been received requesting an exception to the Practitioner Self-Referral Act (the Act). This regulation does not overlap, duplicate, or conflict with state or federal law.

In 2007, Part IV (18VAC75-20-120 et seq.) was added to the regulation to set out criteria for delegation of an informal conference to an agency subordinate. The criteria for delegation would be those applications for an advisory opinion or an exception to the Act that are deemed by the executive director and the chairman of the board to be appropriate for a conference with a subordinate who is qualified by training and experience in the organizational structure of the entity providing the health care service. The board would delegate the choice of the subordinate to the executive director. 18VAC75-20-60 and 18VAC75-20-70 were also amended in 2007 to accurately reflect the process currently followed by a committee of the board that hears an application for an advisory opinion or an exception. The committee does not issue the opinion or grant the exception

---

## General Notices/Errata

---

until its recommendation is presented to the board for ratification. This chapter was reviewed in 2011 and recommended in 2012 to be retained without amendments.

Contact Information: Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, FAX (804) 527-4434, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Board of Health Professions conducted a small business impact review of **18VAC75-40, Regulations Governing the Criteria for Certification of Dialysis Technicians**, and determined that this regulation should be retained in its current form. The Board of Health Professions is publishing its report of findings dated March 11, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation is necessary for public protection since there is a statutory mandate for board-approved certifications in order for a dialysis technician to provide services in a Medicare-certification facility. "Dialysis patient care technician" or "dialysis care technician" means a person who has obtained certification from an organization approved by the Board of Health Professions to provide, under the supervision of a licensed practitioner of medicine or a registered nurse, direct care to patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility,

There have been no complaints or public comments on the content of the regulation. The regulation is straight-forward in identifying the certifications that are approved by the board. There is no registration, certification, or licensure of dialysis technicians. This regulation does not overlap, duplicate, or conflict with state or federal law. This chapter was reviewed in 2011 and recommended in 2012 to be retained without amendments.

Contact Information: Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, FAX (804) 527-4434, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

## DEPARTMENT OF HEALTH PROFESSIONS

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Health Professions conducted a small business impact review of **18VAC76-20, Regulations Governing the Prescription Monitoring Program**, and determined that this regulation should be retained in its current form. The Department of Health Professions is publishing its report of findings dated March 8, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation is necessary for public protection since there is a statutory mandate for licensure in § 54.1-2520 of the Code of Virginia. The director, after consultation with relevant health regulatory boards, shall promulgate, in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), such regulations as are necessary to implement the prescription monitoring program as provided in this chapter. There have been no complaints or public comments on the content of the regulation.

The program is overseen by an advisory committee that includes a community pharmacist, a hospital pharmacist, a primary care physician, a pain management physician, an addiction physician, a nurse practitioner, and representatives from the State Police, Office of the Medical Examiner, Attorney General's Medicaid Fraud Unit, the Department of Behavioral Health and Developmental Services, Department of Medical Assistance Services, and an organization concerned with the adequate relief of pain (hospice). This committee informs the director if there is a need for clarification or amendment to regulations governing the operation of the Prescription Monitoring Program.

This regulation does not overlap, duplicate, or conflict with state or federal law. The regulation is consistent with federal requirements for interoperability with other states and with military treatment facilities under the U.S. Department of Defense.

Amendments to this chapter have been promulgated since the inception of the program in 2003 and in keeping with changes in the law relating to the scope and nature of the program.

Contact Information: Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, FAX (804) 527-4434, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Public Comment Opportunity for the Draft Rehabilitation Provider Manual (Appendix D)

Comment period: March 11, 2019, through April 10, 2019.

Changes to the Rehabilitation Provider Manual (Appendix D) are now posted on the Department of Medical Assistance Services website at <http://www.dmas.virginia.gov/#/manualdraft> for public comment through April 10, 2019.

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).

## VIRGINIA WASTE MANAGEMENT BOARD

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Waste Management Board conducted a small business impact review of **9VAC20-60, Virginia Hazardous Waste Management Regulations**, and determined that this regulation should be retained in its current form. The Virginia Waste Management Board is publishing its report of findings dated February 26, 2019, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The regulation continues to be needed to regulate the treatment, storage, and disposal of hazardous waste. No public comments were received on the regulation during the comment period for the periodic review. The regulation is technical and complex in nature. The regulation adopts federal regulations into state regulation and minimizes confusion concerning applicable requirements. This regulation does not conflict with federal or state laws or regulations.

This regulation was last updated in 2018. This regulation is typically updated annually to address changes that are made to the federal regulation. This regulation has been updated annually since 2010 to maintain consistency with federal requirements. Annual updates minimize the impact the regulation has on all regulated entities (including small businesses) associated with complying with federal requirements that potentially may change throughout the year.

Contact Information: Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email [melissa.porterfield@deq.virginia.gov](mailto:melissa.porterfield@deq.virginia.gov).

## STATE WATER CONTROL BOARD

### Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality is conducting a periodic review and small business impact review of **9VAC25-20, Fees for Permits and Certificates**. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent

with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins April 1, 2019, and ends April 22, 2019.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Melissa Porterfield, Office of Regulatory Affairs, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email [melissa.porterfield@deq.virginia.gov](mailto:melissa.porterfield@deq.virginia.gov).

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

### Proposed Consent Order for Culpeper Towing & Salvage Inc.

An enforcement action has been proposed for Culpeper Towing & Salvage Inc. for violations of the State Water Control Law and regulations at the Culpeper Towing & Salvage facility located in Culpeper County, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the Culpeper Towing & Salvage facility. A description of the proposed action is available at the named Department of Environmental Quality office, or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Benjamin Holland will accept comments by email at [benjamin.holland@deq.virginia.gov](mailto:benjamin.holland@deq.virginia.gov) or by postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from April 2, 2019, through May 2, 2019.

### Proposed Consent Special Order for Franklin County

An enforcement action has been proposed with Franklin County for violations in Franklin County, Virginia. The special order by consent will address and resolve violations of environmental law and regulations. A description of the proposed action is available at the named Department of Environmental Quality office or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Jerry Ford, Jr. will accept comments by email at [jerry.ford@deq.virginia.gov](mailto:jerry.ford@deq.virginia.gov) or postal mail at Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, from April 1, 2019, to May 1, 2019.

# General Notices/Errata

## Community Meeting and Public Comment Period for Water Quality Study for the North Fork Rivanna River

Public meeting: April 17 at 6 p.m. at the Piedmont Virginia Community College Eugene Giuseppe Center in the Greene County Library Building, 222 South Main Street, Stanardsville, VA 22973.

Purpose of notice: The Department of Environmental Quality (DEQ) and its contractors, James Madison University and 3E Consulting, will present a draft water quality study known as a total maximum daily load (TMDL) for the North Fork Rivanna River and its tributaries. The river is listed on the § 303(d) TMDL Priority List and Report as impaired due to violations of Virginia's water quality standards for aquatic life use. This meeting is an opportunity for local residents to learn about the condition of the river and provide input on the draft water quality study. In the case of inclement weather, the meeting will be held at the same location on April 24, 2019, at 6 p.m. and the 30-day public comment period will be extended accordingly.

Meeting description: A public informational meeting will be held to share a draft water quality study for the North Fork Rivanna River and its tributaries with the watershed community. This study was developed with input from local stakeholders, who were invited to provide information on potential stressors to the aquatic community in the watershed through participation in a technical advisory committee. Once these pollutants of concern were identified, the advisory committee assisted DEQ and its partners with a pollutant source assessment for the watersheds and with identification of the pollutant reductions needed from each of these sources to restore the biological community. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. The meeting will be open to the public and all are welcome.

Description of study: The North Fork Rivanna River and several of its tributaries in Greene and Albemarle Counties have been placed on Virginia's impaired waters list for failing to support the benthic water quality standard (Table 1). This standard is intended to protect the aquatic life designated use, which states that all of the Commonwealth's waterways will support a diverse and abundant population of aquatic life. This water quality study included a benthic stressor analysis, which identified sediment as the most likely pollutant responsible for the biological impairments in the North Fork Rivanna and its tributaries. In addition, the analysis identified phosphorous as an additional stressor in Stanardsville and Blue Runs, two tributaries of the North Fork Rivanna River. The draft study reports on the sources of these pollutants in the watersheds and recommends reductions to meet a TMDL for the impaired stream segments. A TMDL is the total

amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality in the North Fork Rivanna River and its tributaries, pollutant levels will need to be reduced to the TMDL amount. Through this process, Virginia agencies partnered with a technical advisory committee made up of local stakeholders to identify the pollutants of concern in the watersheds and pollutant sources and the reductions needed from these sources to meet the TMDL.

Table 1. Benthic impairments in the North Fork (NF) Rivanna River included in TMDL study.

Waterbody Name	Impaired Segment Description	Length (miles)	Initial Listing Date
Flat Branch, unnamed tributary	Headwaters downstream to confluence with Flat Branch	2.03	2010
Swift Run	Confluence with Welsh Run downstream to confluence with NF Rivanna River	1.91	2012
Preddy Creek	Headwaters downstream to confluence with NF Rivanna River	7.48	2016
Preddy Creek, North Branch	Headwaters downstream to confluence with Preddy Creek	6.24	2010
Marsh Run	Headwaters downstream to confluence with NF Rivanna River	3.65	2010
Blue Run	Headwaters downstream to confluence with Swift Run	8.72	2012
Stanardsville Run	Headwaters downstream to confluence with Blue Run	5.7	2014
North Fork Rivanna River	Confluence with Swift Run downstream to the Rivanna Water and Sewer Authority NF Rivanna River Public Water Intake	3.82	2016

North Fork Rivanna River	Confluence with Lynch River downstream to confluence with Swift Run	3.51	2016
Quarter Creek	From dam outfall at Jonquil Road downstream to confluence with Swift Run	1.58	2016

How to comment and participate: All meetings in support of TMDL development are open to the public and all interested parties are welcome. Written comments will be accepted through May 17, 2019, 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 Nesha McRae, Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7850, FAX (540) 574-7878, or email [nesha.mcrae@deq.virginia.gov](mailto:nesha.mcrae@deq.virginia.gov).

**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/cumultab.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.

