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Virginia Code Commission

<http://register.dls.virginia.gov>

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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

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virginia.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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; **Ryan T. McDougle**; **Nicole Cheuk**; **Rita Davis**; **Leslie L. Lilley**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Don L. Scott, Jr.**; **Charles S. Sharp**; **Marcus B. Simon**; **Samuel T. Towell**; **Malfourd W. Trumbo**.

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PUBLICATION SCHEDULE AND DEADLINES

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

June 2020 through May 2021

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
36:22	June 3, 2020	June 22, 2020
36:23	June 17, 2020	July 6, 2020
36:24	July 1, 2020	July 20, 2020
36:25	July 15, 2020	August 3, 2020
36:26	July 29, 2020	August 17, 2020
37:1	August 12, 2020	August 31, 2020
37:2	August 26, 2020	September 14, 2020
37:3	September 9, 2020	September 28, 2020
37:4	September 23, 2020	October 12, 2020
37:5	October 7, 2020	October 26, 2020
37:6	October 21, 2020	November 9, 2020
37:7	November 4, 2020	November 23, 2020
37:8	November 16, 2020 (Monday)	December 7, 2020
37:9	December 2, 2020	December 21, 2020
37:10	December 14, 2020 (Monday)	January 4, 2021
37:11	December 28, 2020 (Monday)	January 18, 2021
37:12	January 13, 2021	February 1, 2021
37:13	January 27, 2021	February 15, 2021
37:14	February 10, 2021	March 1, 2021
37:15	February 24, 2021	March 15, 2021
37:16	March 10, 2021	March 29, 2021
37:17	March 24, 2021	April 12, 2021
37:18	April 7, 2021	April 26, 2021
37:19	April 21, 2021	May 10, 2021

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Agency Notice

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 following regulations are undergoing a periodic review and a small business impact review: **9VAC25-120, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Tests; 9VAC25-196, Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less; and 9VAC25-860, Virginia Pollutant Discharge Elimination System General Permit for Potable Water Treatment Plants.** The review of these regulations will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether these regulations should be repealed, amended, or retained in their current form. Public comment is sought on the review of any issue relating to these regulations, including whether each 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.

Public comment period begins June 8, 2020, and ends June 29, 2020.

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 findings for each review will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Agency Notice

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 following regulation is undergoing a periodic review and a small business impact review: **18VAC30-21, Regulations Governing Audiology and Speech-Language Pathology.** 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.

Public comment period begins June 8, 2020, and ends June 29, 2020.

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 published in the Virginia Register of Regulations.

Contact Information: Leslie L. Knachel, Executive Director, Board of Audiology and Speech-Language Pathology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130, FAX (804) 527-4471, or email audbd@dhp.virginia.gov.

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 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

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

Title of Regulation: **4VAC20-510. Pertaining to Amberjack and Cobia (amending 4VAC20-510-12 through 4VAC20-510-37; repealing 4VAC20-510-33).**

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

Effective Date: June 1, 2020.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23651, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) establish weekly harvest reporting and commercial fishery closure procedures for cobia to comply with Amendment 1 of the Interstate Fisheries Management Plan for Atlantic Migratory Group Cobia and (ii) provide that a scientific collection permit exempts an aquaculture facility employee collecting broodstock from certain requirements.

4VAC20-510-12. Definitions.

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

"Amberjack" means any fish of the species *Seriola dumerili*.

"Cobia" means any fish of the species *Rachycentron canadum*.

"Mandatory Harvest Reporting Program Web Application" means the online web-based resource provided by the commission to report commercial harvest of seafood at <https://webapps.mrc.virginia.gov/harvest/>.

"Recreational vessel" means any vessel, kayak, charter vessel, or headboat vessel participating in the recreational cobia fishery.

"Snout" means the most forward projection from a fish's head that includes the upper and lower jaw.

"Total length" means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the tip of the longer lobe of the tail (caudal) fin, measured with the tail compressed along the midline, using a straight-line measure, not measured over the curve of the body.

"Virginia Saltwater Fisherman's Journal" means the online web-based resource provided by the commission to report recreational harvest of seafood at <https://www.vasaltwaterjournal.com/>.

4VAC20-510-15. Recreational cobia permit and mandatory reporting.

A. It shall be unlawful for any person to possess or land any cobia harvested from a recreational vessel unless the captain or operator of that recreational vessel has obtained a Recreational Cobia Permit from the Marine Resources Commission (commission). The captain or operator shall be responsible for reporting for all anglers on the recreational vessel ~~and shall provide his Marine Resources Commission identification (MRC ID) number, the date of harvest, the number of individuals on board, the mode of fishing, and the number of cobia kept or released.~~ Any captain or operator who did not participate in any recreational cobia season shall be responsible for reporting that captain's or that operator's lack of participation.

B. It shall be unlawful for any person to possess or land any cobia harvested recreationally from shore, a pier, or any other man-made structure without first having obtained a Recreational Cobia Permit from the Marine Resources Commission. ~~Any such permittee shall provide his MRC ID number, the date of harvest, the mode of fishing, and the number of cobia kept or released on that report to the commission.~~ Permittees shall be responsible for reporting all trips. Any permittee who did not participate in any recreational cobia season shall be responsible for reporting that permittee's lack of participation.

C. It shall be unlawful for any recreational cobia permittee to fail to report ~~trips where cobia are caught, whether harvested, released, or possessed in accordance with this section on forms provided by the commission within seven days after the trip occurred.~~ It shall be unlawful for any permittee to fail to report trips where cobia were targeted but not successfully caught, by the 21st day after the close of any recreational cobia fishery season on forms provided by the commission or through the Virginia Saltwater Fisherman's

Journal. Reports shall include MRC ID number, the date of harvest, the mode of fishing, the number of cobia kept or released, and, if fishing from a vessel, the number of persons on board.

1. Any permittee who did not participate in ~~the any~~ recreational cobia season shall ~~notify the commission of his report the permittee's~~ lack of participation by the 21st day after the close of the recreational cobia season ~~on forms provided by the commission or through the Virginia Saltwater Fisherman's Journal.~~

2. ~~Following the 21st day after the close of any recreational cobia season, any permittee who failed to report, whether there was harvest or no activity during that season, shall be ineligible to receive a Recreational Cobia Permit for the following cobia season but shall be eligible to reapply for that permit in subsequent years~~ Any permittee shall report trips where cobia were targeted but not successfully caught by the 21st day after the close of any recreational cobia fishery season.

3. Any permittee shall report trips where cobia were caught, whether harvested, released, or possessed, within seven days after the trip occurred.

D. Following the 21st day after the close of any recreational cobia season, any permittee who failed to report for any season shall be ineligible to receive a recreational cobia permit for the following calendar year but shall be eligible to reapply for that permit in subsequent years.

4VAC20-510-20. Recreational fishery possession limits, season closure, and vessel allowance.

A. It shall be unlawful for any person fishing recreationally to possess ~~more than two amberjack or more than one cobia at any time. Any amberjack or cobia caught after the possession limit has been reached shall be returned to the water immediately.~~ When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit ~~shall be~~ for the boat or vessel ~~and~~ shall be equal to the number of persons on board legally eligible to fish multiplied by ~~two for amberjack or one for cobia~~, except there is a maximum vessel limit of three cobia per vessel per day. ~~That vessel limit may only include one cobia greater than 50 inches in total length.~~ The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any cobia caught after the possession limit has been reached shall be returned to the water immediately.

B. It shall be unlawful for any person fishing recreationally to harvest or possess any cobia before June 1 or after September 30 of the current calendar year.

C. It shall be unlawful for any person fishing recreationally to possess more than two amberjack at any time. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for the

boat or vessel shall be equal to the number of persons on board legally eligible to fish multiplied by two. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any amberjack caught after the possession limit has been reached shall be returned to the water immediately.

4VAC20-510-25. Commercial fishery possession limits and, season, and reporting requirements.

A. It shall be unlawful for any person fishing commercially to possess more than ~~two amberjack or more than two~~ cobia at any time, ~~except as described in 4VAC20-510-33. Any amberjack or cobia caught after the possession limit has been reached shall be returned to the water immediately.~~ When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit ~~shall be~~ for the boat or vessel ~~and~~ shall be equal to the number of valid commercial fisherman registration licensees on board multiplied by two, except there is a maximum vessel limit of six cobia per vessel per day. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any cobia caught after the possession limit has been reached shall be returned to the water immediately.

B. ~~In 2019 it shall be unlawful for any person fishing commercially to harvest or possess any cobia after September 30. Any commercial harvest of cobia shall only be reported through the Mandatory Harvest Reporting Program Web Application. Such reports shall record daily harvests from Sunday through Saturday and be submitted on a weekly basis no later than Wednesday of the following week in accordance with 4VAC20-610.~~

C. It shall be unlawful for any person to take, harvest, land, or possess any cobia for commercial purposes once it has been announced by the commission that the commercial quota has been landed for the current calendar year.

D. It shall be unlawful for any person fishing commercially to possess more than two amberjack at any time. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for the boat or vessel shall be equal to the number of valid commercial fisherman registration licensees on board multiplied by two. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any amberjack caught after the possession limit has been reached shall be returned to the water immediately.

E. The possession of amberjack or cobia by licensed seafood buyers or wholesale and retail seafood establishments when operating in their capacity as buyer, wholesaler, or retailer shall not be limited by the possession limits described in this section.

Regulations

4VAC20-510-30. ~~Minimum size~~ Size limits.

A. It shall be unlawful for any person to take, catch, or have in possession any amberjack less than 32 inches in total length.

B. It shall be unlawful for any person fishing commercially to take, harvest, or possess any cobia less than 37 inches in total length.

C. It shall be unlawful for any person to take, catch, or have in possession any recreationally harvested cobia less than 40 inches in total length.

D. When fishing from any boat or vessel, it shall be unlawful to take, catch, or have in possession more than one recreationally harvested cobia greater than 50 inches in total length per vessel.

4VAC20-510-33. ~~Exceptions to possession limits and minimum size limits.~~ (Repealed.)

~~A. Nothing in 4VAC20-510-25 shall limit the possession of amberjack or cobia by licensed seafood buyers or wholesale and retail seafood establishments when operating in their capacity as buyer, wholesaler, or retailer.~~

~~B. Nothing in 4VAC20-510-25 and 4VAC20-510-30 shall limit the possession of cobia by an aquaculture facility that is permitted in accordance with the provisions of 4VAC20-510-35.~~

~~C. Any person employed by a permitted cobia aquaculture facility for the purpose of harvesting cobia as broodstock for the aquaculture facility shall be exempt from the provisions of 4VAC20-510-20 and 4VAC20-510-30 provided that person possesses a scientific collection permit issued by the commissioner.~~

4VAC20-510-35. Aquaculture of cobia; permit required.

A. Any person operating an aquaculture facility in which cobia that exceed the possession limit or are of sublegal size will be cultured, possessed, offered for sale, or sold shall first obtain a permit from the commissioner for the facility. That permit shall exempt the facility from the possession requirements described in 4VAC20-510-20, 4VAC20-510-25, and 4VAC20-510-30, and authorize the possession, culturing, and sale of sublegal size cobia.

B. The application for a cobia aquaculture permit shall list the name and address of the applicant, the type and location of the facility, and an estimate of production capacity. An aquaculture permit shall be valid for 10 years from the date of issue and may be renewed by the commissioner provided the permittee has complied with all of the provisions of this chapter. The issuance and continuation of any person's cobia aquaculture permit are contingent on that designated facility being open for inspection by the Marine Resources Commission for the purposes of determining compliance with this regulation. An aquaculture permit is not transferable.

C. Any person employed by a permitted cobia aquaculture facility for the purpose of harvesting cobia as broodstock for the aquaculture facility shall be exempt from the provisions of 4VAC20-510-20, 4VAC20-510-25, and 4VAC20-510-30 provided that person possesses a scientific collection permit issued by the commissioner.

4VAC20-510-37. ~~Sale, Aquaculture of cobia; sale, records, importation, and release.~~

A. All cobia produced by an aquaculture facility permitted under this section shall be packaged prior to sale with a printed label indicating the product is of aquaculture origin. When packaged and labeled according to these requirements, such fish may be transported and sold at retail or wholesale or for commercial distribution through normal channels of trade until reaching the consumer.

B. Cobia that measure less than the lawful minimum size described in 4VAC20-510-30 B but are the product of a permitted aquaculture facility in another state may be imported into Virginia for the consumer market. Such fish shall be packaged and labeled in accordance with the provisions contained in subsection A of this section.

~~C. Release of live fish. Under no circumstance shall~~ It shall be unlawful for any cobia produced by an aquaculture facility located within or outside the Commonwealth of Virginia to be placed into the waters of the Commonwealth without first having notified the commissioner and having received written permission from the commissioner.

VA.R. Doc. No. R20-6381; Filed May 26, 2020, 11:16 a.m.

Final Regulation

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

Title of Regulation: **4VAC20-610. Pertaining to Commercial Fishing and Mandatory Harvest Reporting (amending 4VAC20-610-20, 4VAC20-610-60).**

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

Effective Date: June 1, 2020.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23651, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments establish weekly harvest reporting for cobia to comply with Amendment 1 of the Interstate Fisheries Management Plan for Atlantic Migratory Group Cobia.

4VAC20-610-20. Definitions.

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

"Agent" means any person who possesses the commercial fisherman registration license, fishing gear license, or fishing permit of a registered commercial fisherman in order to fish that commercial fisherman's gear or sell that commercial fisherman's harvest.

"Clam aquaculture harvester" means any person who harvests clams from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters.

"Clam aquaculture product owner" means any person or firm that owns clams on leased, subleased, or fee simple ground, or any aquaculture growing area within or adjacent to Virginia tidal waters that are raised by any form of aquaculture. This does not include any riparian shellfish gardeners whose activities are authorized by 4VAC20-336, General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities.

"Clam aquaculture product owner vessel" means any vessel, legally permitted through a no-cost permit, by a clam aquaculture product owner, used to transport clam aquaculture harvesters who do not possess an individual clam aquaculture harvester permit.

"Cobia" means any fish of the species *Rachycentron canadum*.

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of the Marine Resources Commission.

"Continuing business enterprise" means any business that is required to have a Virginia Seafood Buyer's License or is required to have a business license by county, city, or local ordinance.

"Mandatory Harvest Reporting Program Web Application" means the online web-based resource provided by the commission to report commercial harvest of seafood at <https://webapps.mrc.virginia.gov/harvest/>.

"Oyster aquaculture harvester" means any person who harvests oysters from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters.

"Oyster aquaculture product owner" means any person or firm that owns oysters on leased, subleased, or fee simple ground, or any aquaculture growing area within or adjacent to Virginia tidal waters that are raised by any form of aquaculture. This does not include any riparian shellfish gardeners whose activities are authorized by 4VAC20-336,

General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities.

"Oyster aquaculture product owner vessel" means any vessel, legally permitted through a no-cost permit, by an oyster aquaculture product owner, used to transport oyster aquaculture harvesters who do not possess an individual oyster aquaculture harvester permit.

"Sale" means sale, trade, or barter.

"Sell" means sell, trade, or barter.

"Selling" means selling, trading, or bartering.

"Sold" means sold, traded, or bartered.

4VAC20-610-60. Mandatory harvest reporting.

A. It shall be unlawful for any valid commercial fisherman registration licensee, seafood landing licensee, oyster aquaculture product owner permittee, or clam aquaculture product owner permittee to fail to fully report harvests and related information as set forth in this chapter.

B. It shall be unlawful for any recreational fisherman, charter boat captain, head boat captain, commercial fishing pier operator, or owner of a private boat licensed pursuant to §§ 28.2-302.7 through 28.2-302.9 of the Code of Virginia, to fail to report recreational harvests, upon request, to those authorized by the commission.

C. All registered commercial fishermen and any valid seafood landing licensee shall complete a daily form accurately quantifying and legibly describing that day's harvest from Virginia tidal waters and federal waters. The forms used to record daily harvest shall be those provided by the commission or another form approved by the commission. Registered commercial fishermen and seafood landing licensees may use more than one form when selling to more than one buyer.

D. Any oyster aquaculture product owner permittee or clam aquaculture product owner permittee shall complete a monthly form accurately quantifying and legibly describing that month's harvest from Virginia tidal waters. The forms used to record monthly harvest shall be those provided by the commission or another form approved by the commission.

E. Registered commercial fishermen, seafood landing licensees, valid oyster aquaculture product owner permittees, and valid clam aquaculture product owner permittees shall submit a monthly harvest report to the commission no later than the fifth day of the following month, except as described in subsection F of this section. This report shall be accompanied by the daily harvest records described in subsection F G of this section. Completed forms shall be mailed or delivered to the commission or other designated locations.

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F. All reports of the commercial harvest of cobia shall only be submitted through the Mandatory Harvest Reporting Program Web Application. This report shall provide daily harvest records from Sunday through Saturday as described in subsection G of this section and be submitted on a weekly basis no later than Wednesday of the following week.

G. The ~~monthly~~ harvest report requirements shall be as follows:

1. Registered commercial fishermen shall be responsible for providing ~~monthly~~ a harvest report and daily harvest records that include the name and signature of the registered commercial fisherman and ~~his~~ the commercial fisherman's registration license number; the name and license registration number of any agent, if used; the license registration number of no more than five helpers who were not serving as agents; any buyer or private sale information; the date of any harvest; the city or county of landing that harvest; the water body fished, gear type, and amount of gear used for that harvest; the number of hours any gear was fished and the number of hours the registered commercial fisherman fished; the number of crew on board, including captain; species harvested; market category; live weight or processed weight of species harvested; and vessel identification (Coast Guard documentation number, Virginia license number, or hull/VIN number). Any information on the price paid for the harvest may be provided voluntarily.

2. The ~~monthly~~ harvest report from oyster aquaculture product owner permittees and clam aquaculture product owner permittees shall include the name, signature, permit number, lease number, date of the last day of the reporting month, city or county of landing, gear (growing technique) used, weight or amount of species harvested by market category, total number of individual crew members for the month, and buyer or private sale information.

3. The ~~monthly~~ harvest report and daily harvest records from seafood landing licensees shall include the name and signature of the seafood landing licensee and ~~his~~ the licensee's seafood landing license number; buyer or private sale information; date of harvest; city or county of landing; water body fished; gear type and amount used; number of hours gear fished; number of hours the seafood landing licensee fished; number of crew on board, including captain; nonfederally permitted species harvested; market category; live weight or processed weight of species harvested; and vessel identification (Coast Guard documentation number, Virginia license number, or hull/VIN number).

G. H. Registered commercial fishermen, oyster aquaculture product owner permittees and clam aquaculture product owner permittees not fishing during a month, or seafood landing licensees not landing in Virginia during a month, shall so notify the commission no later than the fifth of the

following month by postage paid postal card provided by the commission or by calling the commission's toll free telephone line.

H. I. Any person licensed as a commercial seafood buyer pursuant to § 28.2-228 of the Code of Virginia shall maintain for a period of one year a copy of each fisherman's daily harvest record form for each purchase made. Such records shall be made available upon request to those authorized by the commission.

I. J. Registered commercial fishermen, seafood landing licensees, oyster aquaculture product owner permittees, and clam aquaculture product owner permittees shall maintain their harvest records for one year and shall make them available upon request to those authorized by the commission.

~~J. Registered commercial fishermen, seafood landing licensees, and licensed seafood buyers shall allow those authorized by the commission to sample harvest and seafood products to obtain biological information for scientific and management purposes only. Such sampling shall be conducted in a manner that does not hinder normal business operations.~~

K. The reporting of the harvest of federally permitted species from beyond Virginia's tidal waters that are sold to a federally permitted dealer shall be exempt from the procedures described in this section.

L. The owner of any purse seine vessel or bait seine vessel (snapper rig) licensed under the provisions of § 28.2-402 of the Code of Virginia shall submit the Captain's Daily Fishing Reports to the National Marine Fisheries Service, in accordance with provisions of Amendment 1 to the Interstate Fishery Management Plan of the Atlantic States Marine Fisheries Commission for Atlantic Menhaden, which became effective July 2001.

M. Registered commercial fishermen, seafood landing licensees, and licensed seafood buyers shall allow those authorized by the commission to sample harvest and seafood products to obtain biological information for scientific and management purposes only. Such sampling shall be conducted in a manner that does not hinder normal business operations.

VA.R. Doc. No. R20-6382; Filed May 26, 2020, 11:38 a.m.

Final Regulation

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

Title of Regulation: 4VAC20-950. Pertaining to Black Sea Bass (amending 4VAC20-950-20, 4VAC20-950-45 through 4VAC20-950-49).

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

Effective Date: June 1, 2020.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23651, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) establish the commercial black sea bass fishery quota for 2020 and (ii) make technical changes to clarify whether requirements apply to directed fishery permits or bycatch fishery permits.

4VAC20-950-20. Definitions.

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

"Annual quota" means the Commonwealth's 20% share of the annual coastwide commercial black sea bass quota managed by the Atlantic States Marine Fisheries Commission.

"Black sea bass" means any fish of the species *Centropristis striata*.

"Land" or "landing" means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

"Recreational vessel" means any vessel, kayak, charter vessel, or headboat participating in the recreational black sea bass fishery.

"Snout" means the most forward projection from a fish's head that includes the upper and lower jaw.

"Total length" means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the tip of the longer lobe of the tail (caudal) fin, excluding the caudal fin filament, measured with the tail compressed along the midline, using a straight-line measure, not measured over the curve of the body.

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

A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board

legally licensed to fish, multiplied by 15. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

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

C. The open recreational fishing season shall be from February 1 through February 29, May 15 through May 31, and June 22 through December 31.

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

E. From February 1 through February 29, it shall be unlawful for any person to possess or land any black sea bass harvested from a recreational vessel, unless the captain or operator of that recreational vessel has obtained a Recreational Black Sea Bass Permit from the Marine Resources Commission. The captain or operator shall be responsible for reporting for all anglers on the recreational vessel and shall provide ~~his~~ that captain's or that operator's Marine Resources Commission identification (MRC ID) number, the date of fishing, the number of ~~individuals~~ persons on board, the mode of fishing, and the number of black sea bass kept or released. That report shall be submitted to the commission or to the Standard Atlantic Fisheries Information System, as described in this subsection. It shall be unlawful for any permittee to fail to report trips where black sea bass were caught, whether harvested, released, or possessed in accordance with this section, on forms provided by the commission or through the Virginia Saltwater Fisherman's Journal within seven days after the trip occurred. It shall be unlawful for any permittee to fail to report trips where black sea bass were targeted but not successfully caught by March 15 of the current calendar year. Any permittee who did not participate in the recreational black sea bass season during February shall notify the commission of ~~his~~ the permittee's lack of participation by March 15 of the current calendar year.

F. It shall be unlawful for any permittee to fail to contact the Law Enforcement Operations at 1-800-541-4646 before or immediately after the start of each fishing trip. The permittee shall provide the Law Enforcement Operations with ~~his~~ the permittee's name, MRC ID number, the point of landing, a description of the vessel, estimated return to shore time, and a contact phone number. Any authorized permittee shall allow commission staff to sample the catch to obtain biological information for scientific and management purposes only.

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4VAC20-950-46. Directed fishery and bycatch fishery permits.

A. It shall be unlawful for any person to participate in the commercial black sea bass fishery or to possess, harvest, or sell black sea bass, except as described in 4VAC20-950-60 and 4VAC20-950-70, without first qualifying for and obtaining either a directed fishery permit or a bycatch fishery permit from the commission, as described, respectively, in subsections B, C, and D of this section, unless that person meets the requirements described in 4VAC20-950-48.2.

B. Any person who qualified for a directed commercial black sea bass fishery permit, as of January 1, 2003, by satisfying all the eligibility criteria listed in this subsection shall remain eligible for that permit, unless that person permanently transferred all ~~his~~ that person's shares of the directed fishery quota.

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License in addition to a federal Black Sea Bass Moratorium Permit; and

2. That person shall have landed and sold in Virginia at least 10,000 pounds of black sea bass from July 1, 1997, through December 31, 2001.

C. Any person who meets the eligibility criteria of subsection B of this section but no longer meets the requirements of subdivision B 1 of this section shall remain eligible to transfer shares of ~~his~~ that person's directed fishery quota in accordance with 4VAC20-950-48.1.

D. A person shall be considered eligible for a bycatch commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License, in addition to a federal Black Sea Bass Moratorium Permit; and

2. That person shall have landed and sold in Virginia at least one pound of black sea bass from July 1, 1997, through December 31, 2001.

4VAC20-950-47. Commercial harvest quotas.

A. The ~~annual~~ commercial black sea bass directed fishery quota is ~~664,000 pounds~~ shall be allocated 100% of the annual quota each year except the commercial directed fishery quota shall not include the amount of annual quota allocated to the commercial black sea bass bycatch fishery specified in subsection B of this section. When it has been announced by the commission that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any ~~directed~~ commercial black sea bass directed fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The ~~annual~~ commercial black sea bass bycatch fishery ~~quota is~~ shall be allocated 40,000 pounds of the annual quota each calendar year. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any ~~bycatch~~ commercial black sea bass bycatch fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount of the bycatch fishery quota overage shall be deducted from the following year's bycatch fishing quota.

4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the ~~directed~~ commercial fishery black sea bass directed fishery quota for the current calendar year. Any directed fishery permittee shall be limited to landings in Virginia in the amount of ~~his~~ the permittee's individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed ~~his~~ that permittee's individual fishery quota. In addition to the penalties prescribed by law, any overages of ~~an individual's a~~ permittee's individual fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-Out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the directed fishery quota.

C. It shall be unlawful for any person harvesting black sea bass to possess aboard any vessel in Virginia waters any amount of black sea bass that exceeds the combined total of any portion of the Virginia permitted landing limit, as described in subsection A of this section, and the North Carolina legal landing limit.

D. It shall be unlawful for any person permitted for the bycatch fishery to do any of the following:

1. Possess aboard a vessel or land in Virginia more than 200 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, except as provided in subdivision 2 of this subsection;
2. Possess aboard a vessel or land in Virginia more than 1,500 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, provided that the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Longfin squid, and Atlantic mackerel on board the vessel; or
3. Possess aboard a vessel or land in Virginia more than 100 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit when it is projected and announced that 75% of the bycatch fishery quota has been taken.

E. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

F. An individual fishery quota, as described in subsection A of this section, shall be equal to ~~an individual's~~ a person's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

4VAC20-950-48.1. Individual transferable quotas.

A. Shares of the directed fishery quota, in pounds, held by any permitted fisherman in the directed fishery may be transferred to another person, and such transfer shall allow the transferee to harvest, possess, and land black sea bass in Virginia in a quantity equal to the shares of the directed fishery quota transferred, provided that transferee satisfies the eligibility requirements described in 4VAC20-950-46 B 1.

B. Any transfer of black sea bass shall be limited by the following conditions.

1. Commercial black sea bass shares of the directed fishery quota shall not be transferred in any quantity less than 200 pounds.
2. No person permitted for the directed fishery may hold more than 20% of the annual directed fishery quota.
3. No transfer of shares of the black sea bass directed fishery quota shall be authorized unless such transfer is documented on a form provided by the commission and approved by the commissioner.
4. Any person who receives a permanent transfer of directed fishery quota but does not satisfy the eligibility requirements described in 4VAC20-950-46 B 1 shall remain eligible to transfer shares of ~~his~~ that person's directed fishery quota in accordance with this section.

C. Transfers of all or a portion of any person's share of the directed fishery quota may be permanent or temporary. Transferred directed fishery quota shall only be used by the transferee for black sea bass landed in Virginia. Permanent transfers of shares of directed fishery quota shall grant to the transferee that transferred share of the directed fishery quota for future years, and the transferor loses that same transferred share of the directed fishery quota in future years. Temporary transfers of shares of the directed fishery quota shall allow the transferee to harvest that transferred share of the directed fishery quota during the year in which the transfer is approved. Thereafter, any transferred share of the directed fishery quota reverts back to the transferor.

4VAC20-950-48.2. Alternate vessel authorization requirements.

A. Any person possessing a directed fishery permit may authorize an alternate vessel to harvest, possess, and land any portion of ~~his~~ that person's individual directed fishery quota, provided the following conditions are met:

1. The directed fishery permit holder has submitted a completed and notarized alternate vessel authorization form to the commission.
2. The alternate vessel named on the authorization form holds a federal Black Sea Bass Moratorium Permit and that alternate vessel either holds a Virginia Seafood Landing License or that alternate vessel's owner and operator holds a Commercial Fisherman Registration License.
3. The alternate vessel authorization has been accepted and approved by the commissioner.
4. The alternate vessel maintains copies of the alternate vessel authorization form and the permit of the directed fishery quota owner at all times while serving as the alternate vessel.

B. No authorization for an alternate vessel to land black sea bass shall extend for more than 60 days from the date the commissioner approves the authorization. After 60 days, any unused portion of directed fishery quota authorized for the alternate vessel shall revert to its directed fishery permit holder.

4VAC20-950-49. Reporting requirements.

A. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing vessel to fail to contact, within one hour of landing, the Law Enforcement Operations to report ~~his~~ that person's name and the name of the vessel, ~~his~~ that person's permit number, the location where catch will be offloaded, and the estimated weight of the landing of black sea bass.

B. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing vessel to fail to contact, within 24 hours of

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landing, the Marine Resources Commission's Interactive Voice Recording System to report the name of the permit holder and the name of the vessel that landed the black sea bass, date of landing, the permit number, and the weight of black sea bass landed.

C. Any buyer of black sea bass from a directed fishery permittee, a bycatch fishery permittee, or an authorized alternate landing vessel shall maintain records of all purchases for the current year and prior year and make those records available to the Marine Resources Commission upon request.

VA.R. Doc. No. R20-6383; Filed May 26, 2020, 1:41 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

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.

Titles of Regulations: **9VAC25-210. Virginia Water Protection Permit Program Regulation.**

9VAC25-660. Virginia Water Protection General Permit for Impacts Less Than One-Half Acre.

9VAC25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities.

9VAC25-680. Virginia Water Protection General Permit for Linear Transportation Projects.

9VAC25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities.

Contact Information: Gary Graham, Regulatory Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 698-4103, or email gary.graham@deq.virginia.gov.

FORMS (9VAC25-210)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

~~[Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia \(rev. 9/2018\)](#)~~

[Standard Joint Permit Application \(rev. 10/2019\)](#)

[Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

~~[Tidewater Joint Permit Application for Projects Involving Tidal Waters, Tidal Wetlands and/or Dunes and Beaches in Virginia \(rev. 9/2018\)](#)~~

[Tidewater Joint Permit Application \(JPA\) for Projects Involving Tidal Waters, Tidal Wetlands and/or Dunes and Beaches in Virginia \(rev. 10/2019\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide \(eff. 8/2007\)](#)

FORMS (9VAC25-660)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

~~[Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia \(rev. 9/2018\)](#)~~

[Standard Joint Permit Application \(rev. 10/2019\)](#)

[Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide \(eff. 8/2007\)](#)

FORMS (9VAC25-670)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

~~[Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia \(rev. 9/2018\)](#)~~

[Standard Joint Permit Application \(rev. 10/2019\)](#)

[Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide \(eff. 8/2007\)](#)

FORMS (9VAC25-680)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

~~[Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia \(rev. 9/2018\)](#)~~

[Standard Joint Permit Application \(rev. 10/2019\)](#)

[Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide \(eff. 8/2007\)](#)

FORMS (9VAC25-690)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

Standard Joint Permit Application for Projects in Waters and Wetlands of the Commonwealth of Virginia (rev. 9/2018)

[Standard Joint Permit Application \(rev. 10/2019\)](#)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

VA.R. Doc. No. R20-6373; Filed May 11, 2020, 3:43 p.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Health will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **12VAC5-412. Regulations for Licensure of Abortion Facilities (repealing 12VAC5-412-10 through 12VAC5-412-370).**

Statutory Authority: § 32.1-127 of the Code of Virginia.

Effective Date: July 8, 2020.

Agency Contact: Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email regulatorycomment@vdh.virginia.gov.

Summary:

The amendments repeal Regulations for Licensure of Abortion Facilities (12VAC5-412). Chapters 898 and 899 of the 2020 Acts of Assembly repeal the statutory provision classifying a facility that performs five or more first-trimester abortions per month as a category of hospital, thereby removing such a facility from the State Board of Health's regulatory authority.

VA.R. Doc. No. R20-6352; Filed May 19, 2020, 12:38 p.m.



TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **14VAC5-200. Rules Governing Long-Term Care Insurance (amending 14VAC5-200-125).**

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Effective Date: June 15, 2020.

Agency Contact: Bob Grissom, Chief Insurance Market Examiner, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9152, FAX (804) 371-9944, or email bob.grissom@scc.virginia.gov.

Summary:

The amendments remove the due date for annual long-term care rate reports and allow the bureau to set the date by administrative letter. The new deadline for the annual rate report is anticipated to be in September or October of each year.

AT RICHMOND, MAY 7, 2020

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2020-00033

Ex Parte: In the matter of Amending Rules Governing Long-Term Care Insurance

ORDER ADOPTING AMENDMENTS TO RULES

By Order to Take Notice ("Order") entered March 11, 2020, insurers and interested persons were ordered to take notice that subsequent to May 1, 2020, the State Corporation Commission ("Commission") would consider the entry of an order adopting amendments to rules set forth in Chapter 200 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Long-Term Care Insurance," which amend the Rules at 14 VAC 5-200-125, unless on or before May 1, 2020, any person objecting to the adoption of the amendments to the Rules filed a request for a hearing with the Clerk of the Commission ("Clerk").

The Order also required insurers and interested persons to file their comments in support of or in opposition to the

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proposed amendments to the Rules with the Clerk on or before May 1, 2020.

No request for a hearing and no comments were filed with the Clerk.

The amendments to the Rules are necessary to allow more flexibility with the due date for the annual long-term care rate report. The Commission intends to allow the Bureau to set a due date of on or about October 1 annually by administrative letter.

NOW THE COMMISSION, having considered the proposed amendments is of the opinion that the attached amendments to the Rules should be adopted as proposed, effective June 15, 2020.

Accordingly, IT IS ORDERED THAT:

(1) The amendments to Chapter 200 of Title 14 of the Virginia Administrative Code at 14 VAC 5-200-125, which is attached hereto and made a part hereof, are hereby ADOPTED effective June 15, 2020.

(2) The Bureau shall provide notice of the adoption of the amendments to the Rules to all insurers licensed in Virginia to write long-term care insurance and to all interested persons.

(3) The Commission's Division of Information Resources shall cause a copy of this Order, together with the amended Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) The Commission's Division of Information Resources shall make available this Order and the attached amendments to the Rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) The Bureau shall file with the Clerk of the Commission a certificate of compliance with the notice requirements of Ordering Paragraph (2) above.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

A COPY hereof shall be sent electronically by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, at mail to: mbrowder@oag.state.va.us, 202 North 9th Street, 8th Floor, Richmond, Virginia 23219; and a copy hereof shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Julie S. Blauvelt.

14VAC5-200-125. Annual rate reports.

A. Every insurer shall report to the commission annually ~~by June 30~~ premium rates for all long-term care insurance policies. The commission shall establish the due date and post

this report to the Bureau of Insurance's webpage. The rate report shall include:

1. For policies issued on or after October 1, 2003, an actuarial certification prepared, dated, and signed by a qualified actuary that provides at least the following information:

a. A statement of the sufficiency of the current premium rate schedule including:

(1) For policies currently marketed:

(a) The premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience, consistent with the margins as defined in the original rate filing or any subsequent rate filing, and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; or

(b) If the statement in subdivision 1 a (1) (a) of this subsection cannot be made, a statement that margins for moderately adverse experience, consistent with the margins as defined in the original rate filing or any subsequent rate filing, may no longer be sufficient. In this situation, the insurer shall submit to the commission within 60 days of the date of the actuarial certification a plan of action, including a timeframe, for the reestablishment of adequate margins for moderately adverse experience so that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated. Failure to submit a plan of action to the commission within 60 days or to comply with the timeframe stated in the plan of action constitutes grounds for withdrawal or modification of approval of the form for future sales.

(2) For policies that are no longer marketed:

(a) A statement that the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions; or

(b) A statement that the premium rate schedule may no longer be sufficient. The insurer shall submit to the commission within 60 days of the date of the actuarial certification a plan of action, including a timeframe for the reestablishment of adequate margins for moderately adverse experience.

b. A description of the review performed that led to the statement.

c. At least once every three years, an actuarial memorandum dated and signed by a qualified actuary that supports the actuarial certification and provides at least the following information:

(1) A detailed explanation of the data sources and review performed by the actuary prior to making the statement in subdivision 1 a (1) of this subsection;

(2) A complete description of experience assumptions and their relationship to the initial pricing assumptions;

(3) A description of the credibility of the experience data; and

(4) An explanation of the analysis and testing performed in determining the current presence of margins.

2. For policies issued prior to October 1, 2003, the report shall include a statement signed by a qualified actuary that a complete analysis and review of the premium rates was conducted, a description of the analysis, the date on which the analysis was completed, and any rate action found to be necessary as a result of the analysis.

B. Reports required in this section shall be based on the previous calendar year data and filed with the commission no later than ~~June 30~~ the due date. The commission may request any additional information that will support the information required in this section.

V.A.R. Doc. No. R20-6337; Filed May 8, 2020, 10:49 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Final Regulation

REGISTRAR'S NOTICE: The Board for Barbers and Cosmetology is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Board for Barbers and Cosmetology will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-140).**

18VAC41-50. Tattooing Regulations (amending 18VAC41-50-130).

18VAC41-60. Body-Piercing Regulations (amending 18VAC41-60-90).

18VAC41-70. Esthetics Regulations (amending 18VAC41-70-120).

Statutory Authority: § 54.1-201 of the Code of Virginia.

Effective Date: September 1, 2020.

Agency Contact: Stephen Kirschner, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

Summary:

In compliance with § 54.1-113 of the Code of Virginia, the amendments provide a temporary reduction in application, renewal, and reinstatement fees for all licenses issued by the Board for Barbers and Cosmetology on or before August 31, 2022.

18VAC41-20-140. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016 2020, through August 31, 2020 2022	AMOUNT DUE September 1, 2020 2022, and after	WHEN DUE
Individuals:			
Application	\$75 \$95	\$105	With application
License by Endorsement	\$75 \$95	\$105	With application
Renewal:			
Barber	\$75 \$95	\$105	With renewal card prior to expiration date
Master Barber	\$75 \$95	\$105	With renewal card prior to expiration date
Cosmetologist	\$75 \$95	\$105	With renewal card prior to expiration date
Nail Technician	\$75 \$95	\$105	With renewal card prior to expiration date
Wax Technician	\$75 \$95	\$105	With renewal card prior to expiration date

Regulations

Reinstatement	\$150 * \$190 * *includes \$75 \$95 renewal fee and \$75 \$95 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
Instructors:			
Application	\$100 \$115	\$125	With application
License by Endorsement	\$100 \$115	\$125	With application
Renewal	\$100 \$115	\$150	With renewal card prior to expiration date
Reinstatement	\$200 * \$230 * *includes \$100 \$115 renewal fee and \$100 \$115 reinstatement fee	\$300* *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application
Facilities:			
Application	\$130 \$170	\$190	With application
Renewal	\$130 \$170	\$190	With renewal card prior to expiration date
Reinstatement	\$260 * \$340 * *includes \$130 \$170 renewal fee and \$130 \$170 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application
Schools:			
Application	\$140 \$190	\$220	With application
Add Program	\$100	\$100	With application
Renewal	\$140 \$190	\$220	With renewal card prior to expiration date
Reinstatement	\$280 * \$380 * *includes \$140 \$190 renewal fee and \$140 \$190 reinstatement fee	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application

18VAC41-50-130. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016 2020 , through August 31, 2020 2022	AMOUNT DUE September 1, 2020 2022 , and after	WHEN DUE
Individuals:			
Application	\$75 \$95	\$105	With application
License by Endorsement	\$75 \$95	\$105	With application
Renewal	\$75 \$95	\$105	With renewal card prior to expiration date
Reinstatement	\$150 * \$190 * *includes \$75 \$95 renewal fee and \$75 \$95 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
Instructors:			
Application	\$100 \$115	\$125	With application
License by Endorsement	\$100 \$115	\$125	With application
Renewal	\$100 \$115	\$150	With renewal card prior to expiration date
Reinstatement	\$200 * \$230 * *includes \$100 \$115 renewal fee and \$100 \$115 reinstatement fee	\$300* *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application
Parlors or salons:			
Application	\$130 \$170	\$190	With application
Renewal	\$130 \$170	\$190	With renewal card prior to expiration date
Reinstatement	\$260 * \$340 * *includes \$130 \$170 renewal fee and \$130 \$170 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application
Schools:			
Application	\$140 \$190	\$220	With application
Renewal	\$140 \$190	\$220	With renewal card prior to expiration date

Reinstatement	\$280 * \$380 * *includes \$140 \$190 renewal fee and \$140 \$190 reinstatement fee	\$440 * *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application
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18VAC41-60-90. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016 2020 , through August 31, 2020 2022	AMOUNT DUE September 1, 2020 2022 , and after	WHEN DUE
Individuals:			
Application	\$75 \$95	\$105	With application
License by Endorsement	\$75 \$95	\$105	With application
Renewal:	\$75 \$95	\$105	With renewal card prior to expiration date
Reinstatement	\$150 * \$190 * *includes \$75 \$95 renewal fee and \$75 \$95 reinstatement fee	\$210 * *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
Salons:			
Application	\$130 \$170	\$190	With application
Renewal	\$130 \$170	\$190	With renewal card prior to expiration date
Reinstatement	\$260 * \$340 * *includes \$130 \$170 renewal fee and \$130 \$170 reinstatement fee	\$380 * *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application

18VAC41-70-120. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016 2020 , through and August 31, 2020 2022	AMOUNT DUE September 1, 2020 2022 , and after	WHEN DUE
Individuals:			
Application	\$75 \$95	\$105	With application

License by Endorsement	\$75 \$95	\$105	With application
Renewal	\$75 \$95	\$105	With renewal card prior to expiration date
Reinstatement	\$150 * \$190 * *includes \$75 \$95 renewal fee and \$75 \$95 reinstatement fee	\$210 * *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application

Instructors:

Application	\$100 \$115	\$125	With application
License by Endorsement	\$100 \$115	\$125	With application
Renewal	\$100 \$115	\$150	With renewal card prior to expiration date
Reinstatement	\$200 * \$230 * *includes \$100 \$115 renewal fee and \$100 \$115 reinstatement fee	\$300 * *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application

Spas:

Application	\$130 \$170	\$190	With application
Renewal	\$130 \$170	\$190	With renewal card prior to expiration date
Reinstatement	\$260 * \$340 * *includes \$130 \$170 renewal fee and \$130 \$170 reinstatement fee	\$380 * *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application

Schools:

Application	\$140 \$190	\$220	With application
Renewal	\$140 \$190	\$220	With renewal card prior to expiration date

Regulations

Reinstatement	\$280* \$380* *includes \$140 \$190 renewal fee and \$140 \$190 reinstatement fee	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application
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VA.R. Doc. No. R20-6365; Filed May 11, 2020, 1:01 p.m.

BOARD OF NURSING

Notice of Extension of Emergency Regulation

Titles of Regulations: **18VAC90-30. Regulations Governing the Licensure of Nurse Practitioners (amending 18VAC90-30-10, 18VAC90-30-20, 18VAC90-30-50, 18VAC90-30-85, 18VAC90-30-110, 18VAC90-30-120; adding 18VAC90-30-86).**

18VAC90-40. Regulations for Prescriptive Authority for Nurse Practitioners (amending 18VAC90-40-90).

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Effective Date Extended Through: December 5, 2020.

The Governor approved the request of the Board of Nursing to extend the June 6, 2020, expiration date of the emergency regulation for six months as provided by § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation will continue in effect through December 5, 2020. The emergency regulation permits a nurse practitioner who meets certain statutory requirements, pursuant to Chapter 776 of the 2018 Acts of Assembly, to practice without a practice agreement with a patient care team physician. Allowing this emergency regulation to expire would make the board unable to approve nurse practitioners for independent practice, which would not be in the interest of public health and safety. The emergency regulation was published in **35:10 VA.R. 1315-1319 January 7, 2019**. The final stage of the regulatory action to adopt a permanent replacement for the emergency regulation has been submitted for publication in Volume 36, Issue 22 of the Virginia Register on June 22, 2020.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4520, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R19-5512; Filed May 26, 2020,

BOARD OF PHARMACY

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.

Titles of Regulations: **18VAC110-20. Regulations Governing the Practice of Pharmacy.**

18VAC110-60. Regulations Governing Pharmaceutical Processors.

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 (18VAC110-20)

[Application for a Pharmacy Permit \(rev. 5/2018\)](#)

[Application for a Nonresident Pharmacy Registration \(rev. 7/2018\)](#)

[Application for a Nonresident Outsourcing Facility Registration \(rev. 7/2018\)](#)

[Application for an Outsourcing Facility Permit \(rev 6/2018\)](#)

[Application for a Permit as a Medical Equipment Supplier \(rev. 7/2018\)](#)

[Application for a Permit as a Nonresident Medical Equipment Supplier \(rev. 7/2018\)](#)

~~[Application for a Controlled Substances Registration Certificate \(rev. 7/2018\)](#)~~

[Application for a Controlled Substances Registration Certificate \(rev. 5/2020\)](#)

[Closing of a Pharmacy \(rev. 5/2018\)](#)

[Application for Approval of an Innovative \(Pilot\) Program \(rev. 5/2018\)](#)

[Registration for a Pharmacy to be a Collection Site for Donated Drugs \(rev. 5/2018\)](#)

[Application for Approval of Repackaging Training Program \(rev. 5/2018\)](#)

[Registration for a Facility to be an Authorized Collector for Drug Disposal \(rev. 5.2018\)](#)

[Application for Re-Inspection of a Facility \(rev. 8/2019\)](#)

[Notification of Distribution Cessation due to Suspicious Orders \(rev. 5/2018\)](#)

FORMS (18VAC110-60)

Application for registration of a patient, online form available at <https://www.license.dhp.virginia.gov/apply>

Application for registration of a parent or legal guardian, online form available at <https://www.license.dhp.virginia.gov/apply>

Application for registration of a practitioner to issue certifications, online form available at <https://www.license.dhp.virginia.gov/apply>

[Application for Pharmaceutical Processor Permit \(eff. 6/2019\)](#)

[Patient Parent or Legal Guardian Reporting Requirements \(eff. 6/2019\)](#)

[Practitioner Reporting Requirements \(eff. 6/2019\)](#)

[Registration of CBD or THC-A Oil Products \(eff. 6/2019\)](#)

[Pharmaceutical Processor Inspection Form \(eff. 10/2019\)](#)

[Application for Registration as a Registered Agent \(eff. 12/2019\)](#)

[Request for Visitor Approval \(eff. 5/2020\)](#)

VA.R. Doc. No. R20-6378; Filed May 19, 2020, 9:53 a.m.

Notice of Extension of Emergency Regulation

Title of Regulation: 18VAC110-50. Regulations Governing Wholesale Distributors, Manufacturers, Third-Party Logistics Providers, and Warehousemen (adding 18VAC110-50-55).

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Effective Date Extended Through: December 11, 2020.

The Governor approved the request of the Board of Pharmacy to extend the expiration date of the emergency regulation for six months as provided by § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation will continue in effect through December 11, 2020. The emergency regulation establishes the requirements for delivery of Schedule VI devices directly to an ultimate user or consumer on behalf of a medical equipment supplier upon a valid order from a prescriber or upon request from the medical director of a home health agency, nursing home, assisted living facility, or hospice. The Board of Pharmacy canceled its March meeting due to [Executive Order Number Fifty-One \(2020\) Declaration of a State of Emergency Due to Novel Coronavirus \(COVID-19\)](#) and was unable to take final action for replacement of the emergency regulations until May 18, 2020. The extension is required in order to continue enforcing 18VAC110-50-55, which implements Chapters 241 and 242 of the 2018 Acts of Assembly. The emergency regulation was published in [35:9 VA.R. 1193-1194 December 24, 2018](#).

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. R19-5526; Filed May 26, 2020,

GOVERNOR

EXECUTIVE ORDER AMENDED NUMBER FIFTY-ONE (2020)

Extending Declaration of a State of Emergency Due to Novel Coronavirus (COVID-19)

Importance of the Issue

The Commonwealth of Virginia continues to respond to the novel coronavirus (COVID19) pandemic.

Therefore, I declare that a state of emergency continues to exist in the Commonwealth of Virginia with respect to our response to the potential spread of COVID-19, a communicable disease of public health threat. The effects of COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia (Code). By virtue of the authority vested in me by Article V of the Constitution of Virginia, by §§ 44-146.17 and 44-75.1 of the Code, as Governor and Director of Emergency Management and Commander-in-Chief of the Commonwealth's armed forces, I proclaim that a state of emergency continues to exist. Accordingly, I again direct state and local governments to continue to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible. Emergency services shall be conducted in accordance with § 44-146.13 et seq. of the Code.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures, I order the following actions:

A. Implementation by state agencies of the Commonwealth of Virginia's Emergency Operations Plan, as amended, along with other appropriate state plans.

B. Activation of the Virginia Emergency Operations Center and the Virginia Emergency Support Team, as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments to other agencies.

C. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.

D. Activation of § 59.1-525 et seq. of the Code related to price gouging.

E. Activation of the Virginia National Guard to State Active Duty.

F. Authorization of a maximum of \$10,000,000 in state sum sufficient funds for state and local government mission assignments and state response and recovery operations authorized and coordinated through the Virginia Department of Emergency Management allowable by The Stafford Act, 42 USC § 5121 et seq. Included in this authorization is \$1,000,000 for the Department of Military Affairs, if it is called to State Active Duty.

Effective Date of this Executive Order

This Order shall be effective as of March 12, 2020, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of May, 2020.

EXECUTIVE ORDER NUMBER SIXTY-ONE (2020) AND ORDER OF PUBLIC HEALTH EMERGENCY THREE

Phase One Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)

Importance of the Issue

On March 12, 2020, I declared a state of emergency existed in the Commonwealth due to the spread of the novel coronavirus (COVID-19), a communicable disease of public health threat. In that Order, I banned out-of-state travel for state employees, with some limited exceptions. The next day, I closed all K-12 schools for two weeks. Two days later, I ordered a statewide ban on public events of more than 100 people according to guidance from the Center on Disease Control and Prevention. On March 17, 2020, the State Health Commissioner and I issued Order of Public Health Emergency One (Health Order No. 1), later amended, which limited restaurants, fitness centers, and theaters to 10 or fewer patrons.

On March 23, 2020, I issued Executive Order 53. That Order closed certain recreational and entertainment business, limited the operations of non-essential retail businesses, restaurants and dining establishments, and banned gatherings of more than 10 people. It also closed all K-12 schools for the remainder of the academic school year and urged Virginians to stay home except for essential travel. Executive Order 55, which was issued on March 30, 2020, established a temporary Stay at Home Order unless carrying out a necessary life function and continued limiting all in-person gatherings to 10 people or fewer. It also ceased in-person instruction of less than 10 people at all institutions of higher education, restricted certain reservations at privately-owned campgrounds, and closed all public beaches except for exercising and fishing.

The objective of these actions was to slow the spread of this virulent and deadly disease. These extreme measures were

necessary to save lives. By issuing the Stay at Home Order, encouraging physical distancing and teleworking, restricting businesses and gatherings, we lowered transmission rates. These measures also prevented our healthcare systems from being overwhelmed—affording our healthcare systems and healthcare providers time to acquire the tools and resources necessary to respond to the virus. Equally as important, these measures were also necessary to prepare Virginians for the new normal of living and working in the midst of a pandemic.

Now, we must set the path forward. While Virginia's efforts and sacrifices seem to have slowed the spread of the virus, we know it is still present. It is critical that as we begin to ease some of the restrictions in the next phase of our response, we remain vigilant, cautious, and measured. We cannot race back to the lives we led before the pandemic. The path forward will not be business as usual. We must remember to continue to practice physical distancing, to continue teleworking, whenever possible, to wash our hands frequently, to not touch our faces, and to wear face covering whenever possible. These measures, as well as the ones outlined below, are meant to make necessary ventures outside of your home safer, but everyone, especially those who may be more vulnerable to the virus, must understand we are all safer at home.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Executive Order 51, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the Code of Virginia, the following is ordered:

A. EASING OF BUSINESS RESTRICTIONS

1. All Businesses

Any businesses, not listed in this section, should adhere to the Guidelines for All Business Sectors expressly incorporated by reference herein as best practices. This guidance is located [here](#).

2. Restaurants, Dining Establishments, Food Courts, Breweries, Microbreweries, Distilleries, Wineries, and Tasting Rooms

Effective 12:00 a.m., Friday, May 15, 2020, restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may operate delivery, take-out, and outdoor dining and beverage services only, provided such businesses comply with the Guidelines for All Business Sectors, and sector-specific guidance for restaurant and beverage services incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Occupancy may not exceed the 50% of the lowest occupancy load on the certificate of occupancy, if applicable.
- b. No more than 10 patrons may be seated as a party.
- c. Tables at which dining parties are seated must be positioned six feet apart from other tables. If tables are not movable, parties must be seated at least six feet apart.
- d. No self-service of food (except beverages), including condiments. Condiments should be removed from tables and dispensed by employees upon the request of a customer. Buffets must be staffed by servers. For self-service beverage areas, use beverage equipment designed to dispense by a contamination-free method.
- e. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in an outdoor bar area may be used for customer seating as long as a minimum of six feet is provided between parties at tables.
- f. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- g. A thorough cleaning and disinfection of frequently contacted surfaces must be conducted every 60 minutes during operation. Tabletops, chairs, and credit card/bill folders must be cleaned in between patrons.
- h. If any such business cannot adhere to these requirements, it must close.

3. Farmers Markets

Effective 12:00 a.m., Friday, May 15, 2020, farmers markets may reopen, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for farmers markets incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. On-site shopping is allowed, as long as physical distancing guidelines are followed. Configure operations to avoid congestion or congregation points.
- b. Employees and vendors in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. Vendors must supply hand sanitizer stations or hand washing stations for patrons and employees.
- d. A thorough cleaning and disinfection of frequently contacted surfaces must be conducted.
- e. If any such business cannot adhere to these requirements, it must close.

4. Brick And Mortar Retail Businesses Not Listed In Section C, Paragraph 1 (Non-Essential Retail)

Effective 12:00 a.m., Friday, May 15, 2020, any brick and mortar retail business not listed in section C, paragraph 1 may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidance for brick and mortar retail expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy.
- b. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. If any such business cannot adhere to these requirements, it must close.

5. Fitness and Exercise Facilities

Effective 12:00 a.m., Friday, May 15, 2020, fitness centers, gymnasiums, recreation centers, sports facilities, and exercise facilities may reopen for outdoor activities only. Indoor activities are prohibited. Outdoor activities may be conducted provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for fitness and exercise facilities expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Patrons, members, and guests must remain at least ten feet apart during all activities.
- b. Hot tubs, spas, splash pads, spray pools, and interactive play features must be closed.
- c. Outdoor swimming pools may be open for lap swimming only and must be limited to one person per lane.
- d. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.
- e. Employers must ensure cleaning and disinfection of shared equipment after each use.
- f. Facilities shall prohibit the use of any equipment that cannot be thoroughly disinfected between uses (e.g., climbing rope, exercise bands, etc.).
- g. Businesses must supply hand sanitizer stations or hand washing stations for patrons, members, and guests.
- h. All group outdoor activities may not have more than 10 guests, patrons, or members.
- i. If any such business cannot adhere to these requirements, it must close.

6. Personal Care and Personal Grooming Services

Effective 12:00 a.m., Friday, May 15, 2020, beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or

personal grooming services are performed may reopen, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for personal care and personal grooming services expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Occupancy may not exceed 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between work stations and only one appointment per service provider at a time.
- b. Service providers and employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. Provide face coverings for clients or ask that clients bring a face covering with them, which they must wear during the service. Limit services to only those that can be completed without clients removing their face covering.
- d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes in operations, while cleaning and disinfecting all personal care and personal grooming tools after each use. If that is not possible such items must be discarded.
- e. If any such business cannot adhere to these requirements, it must close.

7. Campgrounds

Effective 12:00 a.m., Friday, May 15, 2020, privately-owned campgrounds, as defined in § 35.1-1 of the Code of Virginia may reopen, provided they comply with the Guidelines for All Business Sectors and the sector-specific guidelines for campgrounds, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. A minimum of 20 feet must be maintained between units for all lots rented for short-term stays of less than 14 nights (and not owned by individuals).
- b. Employees working in public-facing areas are required to wear face coverings over their nose and mouth at all times.
- c. It is recommended that campgrounds must strongly encourage customers to wear face coverings over their nose and mouth.
- d. The provision of hand washing in bath houses and sanitizing stations for guests and employees.
- e. If any such business cannot adhere to these requirements, it must close.

8. Indoor Shooting Ranges

Effective 12:00 a.m., Friday, May 15, 2020, indoor shooting ranges may reopen, provided they comply with the following requirements:

- a. Occupancy must be limited to 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between individuals at all times. Use every other lane to achieve six feet of physical distancing.
- b. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.
- c. Perform thorough cleaning and disinfection of frequently contacted surfaces every 60 minutes in operation, while disinfecting all equipment between each customer use and prohibiting the use of equipment that cannot be thoroughly disinfected.
- d. Either thoroughly clean shared or borrowed equipment in between uses, or only allow the use of personal equipment at the range.
- e. It is recommended that facilities strongly encourage patrons, members, and guests to wear face coverings over their nose and mouth while in the facility.
- f. If any such indoor shooting range cannot adhere to these requirements, it must close.

9. Enforcement

Guidelines for All Business Sectors and the sector-specific guidelines appear [here](#). The Virginia Department of Health shall have authority to enforce section A of this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia. In addition, any agency with regulatory authority over a business listed in section A may enforce this Order as to that business to the extent permitted by law.

B. CONTINUED RESTRICTIONS

1. Certain Recreational and Entertainment Businesses

All public access to recreational and entertainment businesses set forth below shall remain closed:

- a. Theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers;
- b. Racetracks and historic horse racing facilities; and
- c. Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums,

zoos, escape rooms, public and private social clubs, and all other places of indoor public amusement.

2. All Public And Private In-Person Gatherings

All public and private in-person gatherings of more than 10 individuals are prohibited. The presence of more than 10 individuals performing functions of their employment is not a "gathering." A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors.

This restriction does not apply to the gathering of family members living in the same residence. "Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household. Family members are not required to maintain physical distancing while in their homes.

a. Effective 12:00 a.m., Friday, May 15, 2020, individuals may attend religious services subject to the following requirements:

- i. Religious services must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy of the room or facility in which the religious services are conducted.
- ii. Individuals attending religious services must be at least six feet apart when seated and must practice proper physical distancing at all times. Family members, as defined above, may be seated together.
- iii. Mark seating in six-foot increments and in common areas where attendees may congregate.
- iv. Persons attending religious services must strongly consider wearing face coverings over their nose and mouth at all times.
- v. No items can be passed to or between attendees, who are not family members, as defined above.
- vi. Any items used to distribute food or beverages must be disposable, used only once, and discarded.
- vii. A thorough cleaning and disinfection of frequently contacted surfaces must be conducted prior to and following any religious service.
- viii. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 is permitted in the establishment.
- ix. Post signage to provide public health reminders regarding social distancing, gatherings, options for high risk individuals, and staying home if sick.
- x. If religious services cannot be conducted in compliance with the above requirements, they must not be held in-person.

Further, any social gathering held in connection with a religious service is subject to the public and private in-person gatherings restriction in section B, paragraph 2. Additional suggested guidance can be found [here](#).

3. K-12 Schools

K-12 schools, public and private, will continue to be closed for in-person instruction for the remainder of the 2019-2020 school year. Those facilities providing child care services may remain open.

4. Institutions of Higher Education

Institutions of higher education shall continue to cease all in-person classes and instruction, and cancel all gatherings of more than ten individuals. For purposes of facilitating remote learning, performing critical research, or performing essential functions, institutions of higher education may continue to operate, provided that social distancing requirements are maintained.

5. Public Beaches

Continued closure of all public beaches as defined in § 10.1-705 of the Code of Virginia for all activity, except exercising and fishing. Physical distancing requirements must be followed.

6. Overnight Summer Camps

Overnight services of summer camps, as defined in § 35.1-1 of the Code of Virginia, must cease.

7. Enforcement

Violations of section B paragraphs 1, 2, 4, 5, and 6 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

C. CONTINUED GUIDANCE AND DIRECTION

1. Essential Retail Businesses

Essential retail businesses as set out below may remain open during their normal business hours. They should comply with the Guidelines for All Business Sectors expressly incorporated by referenced and linked [here](#), as best practices. Employers are required to provide face coverings to employees.

- a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;
- b. Medical, laboratory, and vision supply retailers;
- c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
- d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;

e. Home improvement, hardware, building material, and building supply retailers;

f. Lawn and garden equipment retailers;

g. Beer, wine, and liquor stores;

h. Retail functions of gas stations and convenience stores;

i. Retail located within healthcare facilities;

j. Banks and other financial institutions with retail functions;

k. Pet and feed stores;

l. Printing and office supply stores; and

m. Laundromats and dry cleaners.

2. State Agencies

All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.

3. Face Coverings

The waiver of § 18.2-422 of the Code of Virginia is continued, so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Executive Order 51 declaring a state of emergency in the Commonwealth. Executive Order 51 remains so amended. This waiver is effective as of March 12, 2020.

4. Large State Events

Continued cancellation of all specially-scheduled state conferences and large events.

5. State Travel

Continued cessation of all official travel outside of Virginia by state employees, with increased flexibility for inter-state commuters and essential personnel.

6. Exceptions

Nothing in the Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government.

7. Expiration of Order

Amended Order of the Governor and State Health Commissioner Declaration of Public Health Emergency,

Order of Public Health Emergency One shall expire on at 11:59 p.m., on May 14, 2020.

Effective Date of this Executive Order

This Order shall be effective 12:00 a.m., Friday, May 15, 2020. This Order further amends Executive Order 55 (2020). Unless otherwise expressly provided herein, this Executive Order shall remain in full force and effect until 11:59 p.m., Wednesday, June 10, 2020, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 8th day of May, 2020.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER SIXTY-ONE (2020) AND AMENDED ORDER OF PUBLIC HEALTH EMERGENCY THREE

Phase One Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)

Expansion of Permitted Activities at Beaches in the City of Virginia Beach

Importance of the Issue

On March 12, 2020, I declared a state of emergency existed in the Commonwealth due to the spread of the novel coronavirus (COVID-19), a communicable disease of public health threat. In that Order, I banned out-of-state travel for state employees, with some limited exceptions. The next day, I closed all K-12 schools for two weeks. Two days later, I ordered a statewide ban on public events of more than 100 people according to guidance from the Center on Disease Control and Prevention. On March 17, 2020, the State Health Commissioner and I issued Order of Public Health Emergency One (Health Order No. 1), later amended, which limited restaurants, fitness centers, and theaters to 10 or fewer patrons.

On March 23, 2020, I issued Executive Order 53. That Order closed certain recreational and entertainment business, limited the operations of non-essential retail businesses, restaurants and dining establishments, and banned gatherings of more than 10 people. It also closed all K-12 schools for the remainder of the academic school year and urged Virginians to stay home except for essential travel. Executive Order 55, which was issued on March 30, 2020, established a temporary Stay at Home Order unless carrying out a necessary life function and continued limiting all in-person gatherings to 10 people or fewer. It also ceased in-person instruction of less than 10 people at all institutions of higher education, restricted certain reservations at privately-owned

campgrounds, and closed all public beaches except for exercising and fishing.

The objective of these actions was to slow the spread of this virulent and deadly disease. These extreme measures were necessary to save lives. By issuing the Stay at Home Order, encouraging physical distancing and teleworking, restricting businesses and gatherings, we lowered transmission rates. These measures also prevented our healthcare systems from being overwhelmed—affording our healthcare systems and healthcare providers time to acquire the tools and resources necessary to respond to the virus. Equally as important, these measures were also necessary to prepare Virginians for the new normal of living and working in the midst of a pandemic.

Now, we must set the path forward. While Virginia's efforts and sacrifices seem to have slowed the spread of the virus, we know it is still present. It is critical that as we begin to ease some of the restrictions in the next phase of our response, we remain vigilant, cautious, and measured. We cannot race back to the lives we led before the pandemic. The path forward will not be business as usual. We must remember to continue to practice physical distancing, to continue teleworking, whenever possible, to wash our hands frequently, to not touch our faces, and to wear face covering whenever possible. These measures, as well as the ones outlined below, are meant to make necessary ventures outside of your home safer, but everyone, especially those who may be more vulnerable to the virus, must understand we are all safer at home.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Executive Order 51, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the Code of Virginia, the following is ordered:

A. EASING OF BUSINESS RESTRICTIONS

1. All Businesses

Any businesses, not listed in this section, should adhere to the Guidelines for All Business Sectors expressly incorporated by reference herein as best practices. This guidance is located here.

2. Restaurants, Dining Establishments, Food Courts, Breweries, Microbreweries, Distilleries, Wineries, and Tasting Rooms

Effective 12:00 a.m., Friday, May 15, 2020, restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may operate delivery, take-out, and outdoor dining and beverage services only, provided such businesses comply with the Guidelines for All Business Sectors, and sector-specific guidance for restaurant and beverage services

incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Occupancy may not exceed the 50% of the lowest occupancy load on the certificate of occupancy, if applicable.
- b. No more than 10 patrons may be seated as a party.
- c. Tables at which dining parties are seated must be positioned six feet apart from other tables. If tables are not movable, parties must be seated at least six feet apart.
- d. No self-service of food (except beverages), including condiments. Condiments should be removed from tables and dispensed by employees upon the request of a customer. Buffets must be staffed by servers. For self-service beverage areas, use beverage equipment designed to dispense by a contamination-free method.
- e. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in an outdoor bar area may be used for customer seating as long as a minimum of six feet is provided between parties at tables.
- f. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- g. A thorough cleaning and disinfection of frequently contacted surfaces must be conducted every 60 minutes during operation. Tabletops, chairs, and credit card/bill folders must be cleaned in between patrons.
- h. If any such business cannot adhere to these requirements, it must close.

3. Farmers Markets

Effective 12:00 a.m., Friday, May 15, 2020, farmers markets may reopen, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for farmers markets incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. On-site shopping is allowed, as long as physical distancing guidelines are followed. Configure operations to avoid congestion or congregation points.
- b. Employees and vendors in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. Vendors must supply hand sanitizer stations or hand washing stations for patrons and employees.
- d. A thorough cleaning and disinfection of frequently contacted surfaces must be conducted.
- e. If any such business cannot adhere to these requirements, it must close.

4. Brick And Mortar Retail Businesses Not Listed In Section C, Paragraph 1 (Non-Essential Retail)

Effective 12:00 a.m., Friday, May 15, 2020, any brick and mortar retail business not listed in section C, paragraph 1 may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidance for brick and mortar retail expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Occupancy must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy.
- b. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. If any such business cannot adhere to these requirements, it must close.

5. Fitness and Exercise Facilities

Effective 12:00 a.m., Friday, May 15, 2020, fitness centers, gymnasiums, recreation centers, sports facilities, and exercise facilities may reopen for outdoor activities only. Indoor activities are prohibited. Outdoor activities may be conducted provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for fitness and exercise facilities expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Patrons, members, and guests must remain at least ten feet apart during all activities.
- b. Hot tubs, spas, splash pads, spray pools, and interactive play features must be closed.
- c. Outdoor swimming pools may be open for lap swimming only and must be limited to one person per lane.
- d. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.
- e. Employers must ensure cleaning and disinfection of shared equipment after each use.
- f. Facilities shall prohibit the use of any equipment that cannot be thoroughly disinfected between uses (e.g., climbing rope, exercise bands, etc.).
- g. Businesses must supply hand sanitizer stations or hand washing stations for patrons, members, and guests.
- h. All group outdoor activities may not have more than 10 guests, patrons, or members.
- i. If any such business cannot adhere to these requirements, it must close.

6. Personal Care and Personal Grooming Services

Effective 12:00 a.m., Friday, May 15, 2020, beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed may reopen, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for personal care and personal grooming services expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Occupancy may not exceed 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between work stations and only one appointment per service provider at a time.
- b. Service providers and employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. Provide face coverings for clients or ask that clients bring a face covering with them, which they must wear during the service. Limit services to only those that can be completed without clients removing their face covering.
- d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes in operations, while cleaning and disinfecting all personal care and personal grooming tools after each use. If that is not possible such items must be discarded.
- e. If any such business cannot adhere to these requirements, it must close.

7. Campgrounds

Effective 12:00 a.m., Friday, May 15, 2020, privately-owned campgrounds, as defined in § 35.1-1 of the Code of Virginia may reopen, provided they comply with the Guidelines for All Business Sectors and the sector-specific guidelines for campgrounds, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. A minimum of 20 feet must be maintained between units for all lots rented for short-term stays of less than 14 nights (and not owned by individuals).
- b. Employees working in public-facing areas are required to wear face coverings over their nose and mouth at all times.
- c. It is recommended that campgrounds must strongly encourage customers to wear face coverings over their nose and mouth.
- d. The provision of hand washing in bath houses and sanitizing stations for guests and employees.
- e. If any such business cannot adhere to these requirements, it must close.

8. Indoor Shooting Ranges

Effective 12:00 a.m., Friday, May 15, 2020, indoor shooting ranges may reopen, provided they comply with the following requirements:

- a. Occupancy must be limited to 50% of the lowest occupancy load on the certificate of occupancy with at least six feet of physical distancing between individuals at all times. Use every other lane to achieve six feet of physical distancing.
- b. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.
- c. Perform thorough cleaning and disinfection of frequently contacted surfaces every 60 minutes in operation, while disinfecting all equipment between each customer use and prohibiting the use of equipment that cannot be thoroughly disinfected.
- d. Either thoroughly clean shared or borrowed equipment in between uses, or only allow the use of personal equipment at the range.
- e. It is recommended that facilities strongly encourage patrons, members, and guests to wear face coverings over their nose and mouth while in the facility.
- f. If any such indoor shooting range cannot adhere to these requirements, it must close.

9. Enforcement

Guidelines for All Business Sectors and the sector-specific guidelines appear [here](#). The Virginia Department of Health shall have authority to enforce section A of this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia. In addition, any agency with regulatory authority over a business listed in section A may enforce this Order as to that business to the extent permitted by law.

B. CONTINUED RESTRICTIONS

1. Certain Recreational and Entertainment Businesses

All public access to recreational and entertainment businesses set forth below shall remain closed:

- a. Theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers;
- b. Racetracks and historic horse racing facilities; and
- c. Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums,

zoos, escape rooms, public and private social clubs, and all other places of indoor public amusement.

2. All Public And Private In-Person Gatherings

All public and private in-person gatherings of more than 10 individuals are prohibited. The presence of more than 10 individuals performing functions of their employment is not a "gathering." A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors.

This restriction does not apply to the gathering of family members living in the same residence. "Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household. Family members are not required to maintain physical distancing while in their homes.

a. Effective 12:00 a.m., Friday, May 15, 2020, individuals may attend religious services subject to the following requirements:

i. Religious services must be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy of the room or facility in which the religious services are conducted.

ii. Individuals attending religious services must be at least six feet apart when seated and must practice proper physical distancing at all times. Family members, as defined above, may be seated together.

iii. Mark seating in six-foot increments and in common areas where attendees may congregate.

iv. Persons attending religious services must strongly consider wearing face coverings over their nose and mouth at all times.

v. No items can be passed to or between attendees, who are not family members, as defined above.

vi. Any items used to distribute food or beverages must be disposable, used only once, and discarded.

vii. A thorough cleaning and disinfection of frequently contacted surfaces must be conducted prior to and following any religious service.

viii. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 is permitted in the establishment.

ix. Post signage to provide public health reminders regarding social distancing, gatherings, options for high risk individuals, and staying home if sick.

x. If religious services cannot be conducted in compliance with the above requirements, they must not be held in-person.

Further, any social gathering held in connection with a religious service is subject to the public and private in-person gatherings restriction in section B, paragraph 2. Additional suggested guidance can be found [here](#).

3. K-12 Schools

K-12 schools, public and private, will continue to be closed for in-person instruction for the remainder of the 2019-2020 school year. Those facilities providing child care services may remain open.

4. Institutions of Higher Education

Institutions of higher education shall continue to cease all in-person classes and instruction, and cancel all gatherings of more than ten individuals. For purposes of facilitating remote learning, performing critical research, or performing essential functions, institutions of higher education may continue to operate, provided that social distancing requirements are maintained.

5. Public Beaches

With the exception of the City of Virginia Beach, the continued closure of all public beaches as defined in § 10.1-705 of the Code of Virginia for all activity, except exercising and fishing. Physical distancing requirements must be followed.

Effective 12:00 a.m., Friday, May 21, 2020, and provided activities on the public beaches are conducted in compliance with the requirements linked [here](#) and [here](#), the City of Virginia Beach may open its beaches to individual and family recreational activity, in addition to exercise and fishing.

6. Overnight Summer Camps

Overnight services of summer camps, as defined in § 35.1-1 of the Code of Virginia, must cease.

7. Enforcement

Violations of section B paragraphs 1, 2, 4, 5 (with the exception of the City of Virginia Beach), and 6 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

C. CONTINUED GUIDANCE AND DIRECTION

1. Essential Retail Businesses

Essential retail businesses as set out below may remain open during their normal business hours. They should comply with the Guidelines for All Business Sectors expressly incorporated by reference and linked [here](#), as best practices. Employers are required to provide face coverings to employees.

a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products,

including dollar stores, and department stores with grocery or pharmacy operations;

- b. Medical, laboratory, and vision supply retailers;
- c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
- d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;
- e. Home improvement, hardware, building material, and building supply retailers;
- f. Lawn and garden equipment retailers;
- g. Beer, wine, and liquor stores;
- h. Retail functions of gas stations and convenience stores;
- i. Retail located within healthcare facilities;
- j. Banks and other financial institutions with retail functions;
- k. Pet and feed stores;
- l. Printing and office supply stores; and
- m. Laundromats and dry cleaners.

2. State Agencies

All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.

3. Face Coverings

The waiver of § 18.2-422 of the Code of Virginia is continued, so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Executive Order 51 declaring a state of emergency in the Commonwealth. Executive Order 51 remains so amended. This waiver is effective as of March 12, 2020.

4. Large State Events

Continued cancellation of all specially-scheduled state conferences and large events.

5. State Travel

Continued cessation of all official travel outside of Virginia by state employees, with increased flexibility for inter-state commuters and essential personnel.

6. Exceptions

Nothing in the Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government.

7. Expiration of Order

Amended Order of the Governor and State Health Commissioner Declaration of Public Health Emergency, Order of Public Health Emergency One shall expire at 11:59 p.m., on May 14, 2020.

Effective Date of this Executive Order

This Order shall be effective 12:00 a.m., Friday, May 15, 2020. This Order further amends Executive Order 55 (2020). Unless otherwise expressly provided herein, this Executive Order shall remain in full force and effect until 11:59 p.m., Wednesday, June 10, 2020, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 19th day of May, 2020.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER SIXTY-TWO (2020) AND ORDER OF PUBLIC HEALTH EMERGENCY FOUR

Jurisdictions Temporarily Delayed From Entering Phase One in Executive Order 61 and Permitted to Remain in Phase Zero NORTHERN VIRGINIA REGION

Importance of the Issue

Executive Order 61, issued on May 8, 2020, and effective at 12:00 a.m., May 15, 2020, eased certain restrictions imposed under Second Amended Executive Order 53 and Executive Order 55 (both Orders are collectively referred to as Phase Zero). Executive Order 61 sets out the Commonwealth of Virginia's path into Phase One. The easing of the Phase Zero restrictions was premised, in part, on the Commonwealth's achievement of certain metrics in responding to the novel coronavirus (COVID-19). The easing of those restrictions is meant to be a floor, and not a ceiling. As previously acknowledged, some regions may need to move into Phase One more slowly than the rest of the Commonwealth. Prior to issuing Executive Order 61, I advised that any locality unready to move into Phase One, upon my review and approval of their request to remain in Phase Zero, could do so.

On May 9, 2020, local officials from the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the

Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, as well as the Towns of Dumfries, Herndon, Leesburg, and Vienna (Northern Virginia Region) requested to remain in Phase Zero. Data provided in connection with that request reveals that with respect to hospitalizations, percent positivity, and case numbers, the Northern Virginia Region faces unique challenges when compared to the rest of the Commonwealth. The Northern Virginia Region is substantially higher than the rest of the Commonwealth in percentage of positive tests for COVID-19. The Northern Virginia Region has about a 25% positivity rate, while the rest of the Commonwealth is closer to 10%. Further, in the last 24 hours, the Northern Virginia Region reported over 700 cases, while the rest of the Commonwealth reported approximately 270. On any given day, 70% of the Commonwealth's positive cases are attributable to the Northern Virginia Region.

In addition, while personal protective equipment (PPE) for hospitals appears to be adequate at this time, the Northern Virginia Region asserts PPE for outpatient facilities continues to be a challenge. Similarly, although the number of deaths in the Northern Virginia Region appear to be trending downward, COVID-19 patients in the Northern Virginia Region make up a significantly larger portion of the region's hospital bed capacity, when compared to COVID hospitalizations in the rest of the Commonwealth. Consequently, after considering the Northern Virginia Region's request and the relevant data, I find the request to delay entering Phase One and to remain in Phase Zero appropriate.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Executive Order 51, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the Code of Virginia, I grant the Northern Virginia Region's request to remain in Phase Zero. Accordingly, as to the Northern Virginia Region, the following measures are extended effective 12:00 a.m. Friday, May 15, 2020:

1. Continued closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets. Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets may continue to offer delivery and take-out services.
2. Continued closure of all public access to recreational and entertainment businesses, as set forth below:
 - a. Theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers;

b. Fitness centers, gymnasiums, recreation centers, indoor sports facilities, and indoor exercise facilities;

c. Beauty salons, barbershops, spas, massage parlors, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed that would not allow compliance with physical distancing guidelines to remain six feet apart;

d. Racetracks and historic horse racing facilities; and

e. Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums, zoos, escape rooms, indoor shooting ranges, public and private social clubs, and all other places of indoor public amusement.

3. Essential retail businesses may remain open during their normal business hours. Such businesses are:

a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;

b. Medical, laboratory, and vision supply retailers;

c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;

d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;

e. Home improvement, hardware, building material, and building supply retailers;

f. Lawn and garden equipment retailers;

g. Beer, wine, and liquor stores;

h. Retail functions of gas stations and convenience stores;

i. Retail located within healthcare facilities;

j. Banks and other financial institutions with retail functions;

k. Pet and feed stores;

l. Printing and office supply stores; and

m. Laundromats and dry cleaners.

Employers are required to provide face coverings to employees.

4. Any brick and mortar retail business not listed in paragraph 3 may continue to operate but must limit all in-person shopping to no more than 10 patrons per establishment. If any such business cannot adhere to the 10 patron limit with proper physical distancing requirements, it must close. Brick and mortar retail business not listed in paragraph 3 are encouraged to follow the Guidelines for All Business Sectors as best practices linked [here](#).

5. All businesses are encouraged to follow the Guidelines for All Business Sectors as best practices linked [here](#) and other appropriate workplace guidance from state and federal authorities while in operation.

6. Although business operations offering professional rather than retail services may remain open, they should utilize teleworking as much as possible. Where telework is not feasible, such business must adhere to physical distancing recommendations, enhanced sanitizing practices on common surfaces, and apply the relevant workplace guidance from state and federal authorities.

7. All individuals in Northern Virginia Region shall remain at their place of residence, except as provided below by this Order. To the extent individuals use shared or outdoor spaces, whether on land or on water, they must at all times maintain physical distancing of at least six feet from any other person, with the exception of family members, as defined below, or caretakers. Individuals may leave their residences for the purpose of:

a. Obtaining food, beverages, goods, or services as permitted in this Order;

b. Seeking medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services;

c. Taking care of other individuals, animals, or visiting the home of a family member;

d. Traveling required by court order or to facilitate child custody, visitation, or child care;

e. Engaging in outdoor activity, including exercise, provided individuals comply with physical distancing requirements;

f. Traveling to and from one's residence, place of worship, or work;

g. Traveling to and from an educational institution;

h. Volunteering with organizations that provide charitable or social services; and

i. Leaving one's residence due to a reasonable fear for health or safety, at the direction of law enforcement, or at the direction of another government agency.

8. All public and private in-person gatherings of more than 10 individuals are prohibited. The presence of more than 10 individuals performing functions of their employment is not a "gathering." A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors. This restriction does not apply to the gathering of family members living in the same residence. "Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household. Family members are not

required to maintain physical distancing while in their homes.

9. Continued cessation of all in-person instruction at K-12 schools, public and private, for the remainder of the 2019-2020 school year. Facilities providing child care services may remain open.

10. Institutions of higher education shall continue to cease all in-person classes and instruction, and cancel all gatherings of more than ten individuals. For purposes of facilitating remote learning, performing critical research, or performing essential functions, institutions of higher education may continue to operate, provided that physical distancing requirements are maintained.

11. Continued cessation of all reservations for overnight stays of less than 14 nights at all privately-owned campgrounds, as defined in § 35.1-1 of the Code of Virginia.

12. Continued closure of all public beaches as defined in § 10.1-705 of the Code of Virginia for all activity, except exercising and fishing. Physical distancing requirements must be followed.

13. Nothing in this Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government.

14. The continued waiver of § 18.2-422 of the Code of Virginia so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Executive Order 51 declaring a state of emergency in the Commonwealth. Executive Order 51 is so further amended. This waiver is effective as of March 12, 2020.

Violation of paragraphs 1, 2, 4, 8, 10, 11, 12 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

The Northern Virginia Region's entrance into Phase One will be delayed and the restrictions above shall remain in place until 11:59 p.m., May 28, 2020.

Effective Date of this Executive Order

This Order shall be effective 12:00 a.m., Friday, May 15, 2020, and further amends Executive Order 55. Unless otherwise expressly provided herein, this Order shall remain in full force and effect until 11:59 p.m., Thursday, May 28, 2020, unless amended or rescinded by further executive order.

Governor

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 12th day of May, 2020.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER SIXTY-TWO (2020)
AND AMENDED ORDER OF PUBLIC HEALTH
EMERGENCY FOUR

**Jurisdictions Temporarily Delayed From Entering
Phase One in Executive Order 61 and Permitted to
Remain in Phase Zero
Phase Zero Jurisdictions**

Importance of the Issue

Executive Order 61, issued on May 8, 2020, and effective at 12:00 a.m., May 15, 2020, eased certain restrictions imposed under Second Amended Executive Order 53 and Executive Order 55 (both Orders are collectively referred to as Phase Zero). Executive Order 61 sets out the Commonwealth of Virginia's path into Phase One. The easing of the Phase Zero restrictions was premised, in part, on the Commonwealth's achievement of certain metrics in responding to the novel coronavirus (COVID-19). The easing of those restrictions is meant to be a floor, and not a ceiling. As previously acknowledged, some regions may need to move into Phase One more slowly than the rest of the Commonwealth. Prior to issuing Executive Order 61, I advised that any locality unready to move into Phase One, upon my review and approval of their request to remain in Phase Zero, could do so.

On May 9, 2020, local officials from the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, as well as the Towns of Dumfries, Herndon, Leesburg, and Vienna (Northern Virginia Region) requested to remain in Phase Zero. Data provided in connection with that request reveals that with respect to hospitalizations, percent positivity, and case numbers, the Northern Virginia Region faces unique challenges when compared to the rest of the Commonwealth. The Northern Virginia Region is substantially higher than the rest of the Commonwealth in percentage of positive tests for COVID-19. The Northern Virginia Region has about a 25% positivity rate, while the rest of the Commonwealth is closer to 10%. Further, in the last 24 hours, the Northern Virginia Region reported over 700 cases, while the rest of the Commonwealth reported approximately 270. On any given day, 70% of the Commonwealth's positive cases are attributable to the Northern Virginia Region.

In addition, while personal protective equipment (PPE) for hospitals appears to be adequate at this time, the Northern

Virginia Region asserts PPE for outpatient facilities continues to be a challenge. Similarly, although the number of deaths in the Northern Virginia Region appear to be trending downward, COVID-19 patients in the Northern Virginia Region make up a significantly larger portion of the region's hospital bed capacity, when compared to COVID-19 hospitalizations in the rest of the Commonwealth. Consequently, after considering the Northern Virginia Region's request and the relevant data, I find the request to delay entering Phase One and to remain in Phase Zero appropriate.

On May 14, 2020, the City of Richmond and the County of Accomack requested to delay implementation of Phase One. Unlike many jurisdictions in the Commonwealth, the City of Richmond's percent positivity of COVID-19 cases has failed to decrease over the past two weeks. Further, its total case count grew. Although Accomack's population is .39% of the Commonwealth, its positive cases represent 2.14% of the statewide totals. Similarly, the number of COVID-19 cases in the County of Accomack continues to increase. Local health officials opine that the County of Accomack's total positive cases could increase by over fifty percent in a matter of days. After considering the City of Richmond's and the County of Accomack's requests and the relevant data, I find the requests to delay entering Phase One and to remain in Phase Zero appropriate.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Executive Order 51, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the Code of Virginia, I grant the Northern Virginia Region's, the City of Richmond's, and the County of Accomack's requests to remain in Phase Zero. Accordingly, as to the Northern Virginia Region, the City of Richmond, and the County of Accomack, including all towns and political subdivisions contained therein (collectively, Phase Zero Jurisdictions), the following measures are extended effective 12:00 a.m. Friday, May 15, 2020:

1. Continued closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets. Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets may continue to offer delivery and take-out services.
2. Continued closure of all public access to recreational and entertainment businesses, as set forth below:
 - a. Theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers;

b. Fitness centers, gymnasiums, recreation centers, indoor sports facilities, and indoor exercise facilities;

c. Beauty salons, barbershops, spas, massage parlors, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed that would not allow compliance with physical distancing guidelines to remain six feet apart;

d. Racetracks and historic horse racing facilities; and

e. Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums, zoos, escape rooms, indoor shooting ranges, public and private social clubs, and all other places of indoor public amusement.

3. Essential retail businesses may remain open during their normal business hours. Such businesses are:

a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;

b. Medical, laboratory, and vision supply retailers;

c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;

d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;

e. Home improvement, hardware, building material, and building supply retailers;

f. Lawn and garden equipment retailers;

g. Beer, wine, and liquor stores;

h. Retail functions of gas stations and convenience stores;

i. Retail located within healthcare facilities;

j. Banks and other financial institutions with retail functions;

k. Pet and feed stores;

l. Printing and office supply stores; and

m. Laundromats and dry cleaners.

Employers are required to provide face coverings to employees.

4. Any brick and mortar retail business not listed in paragraph 3 may continue to operate but must limit all in-person shopping to no more than 10 patrons per establishment. If any such business cannot adhere to the 10 patron limit with proper physical distancing requirements, it must close. Brick and mortar retail business not listed in paragraph 3 are encouraged to follow the Guidelines for All Business Sectors as best practices linked [here](#).

5. All businesses are encouraged to follow the Guidelines for All Business Sectors as best practices linked [here](#) and other appropriate workplace guidance from state and federal authorities while in operation.

6. Although business operations offering professional rather than retail services may remain open, they should utilize teleworking as much as possible. Where telework is not feasible, such businesses must adhere to physical distancing recommendations, enhanced sanitizing practices on common surfaces, and apply the relevant workplace guidance from state and federal authorities.

7. All individuals in Phase Zero Jurisdictions shall remain at their place of residence, except as provided below by this Order. To the extent individuals use shared or outdoor spaces, whether on land or on water, they must at all times maintain physical distancing of at least six feet from any other person, with the exception of family members, as defined below, or caretakers. Individuals may leave their residences for the purpose of:

a. Obtaining food, beverages, goods, or services as permitted in this Order;

b. Seeking medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services;

c. Taking care of other individuals, animals, or visiting the home of a family member;

d. Traveling required by court order or to facilitate child custody, visitation, or child care;

e. Engaging in outdoor activity, including exercise, provided individuals comply with physical distancing requirements;

f. Traveling to and from one's residence, place of worship, or work;

g. Traveling to and from an educational institution;

h. Volunteering with organizations that provide charitable or social services; and

i. Leaving one's residence due to a reasonable fear for health or safety, at the direction of law enforcement, or at the direction of another government agency.

8. All public and private in-person gatherings of more than 10 individuals are prohibited. The presence of more than 10 individuals performing functions of their employment is not a "gathering." A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors. This restriction does not apply to the gathering of family members living in the same residence. "Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household. Family members are not

required to maintain physical distancing while in their homes.

9. Continued cessation of all in-person instruction at K-12 schools, public and private, for the remainder of the 2019-2020 school year. Facilities providing child care services may remain open.

10. Institutions of higher education shall continue to cease all in-person classes and instruction, and cancel all gatherings of more than ten individuals. For purposes of facilitating remote learning, performing critical research, or performing essential functions, institutions of higher education may continue to operate, provided that physical distancing requirements are maintained.

11. Continued cessation of all reservations for overnight stays of less than 14 nights at all privately-owned campgrounds, as defined in § 35.1-1 of the Code of Virginia.

12. Continued closure of all public beaches as defined in § 10.1-705 of the Code of Virginia for all activity, except exercising and fishing. Physical distancing requirements must be followed.

13. Nothing in this Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government.

14. The continued waiver of § 18.2-422 of the Code of Virginia so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Executive Order 51 declaring a state of emergency in the Commonwealth. Executive Order 51 is so further amended. This waiver is effective as of March 12, 2020.

Violation of paragraphs 1, 2, 4, 8, 10, 11, 12 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

The Phase Zero Jurisdictions' entrance into Phase One will be delayed and the restrictions above shall remain in place until 11:59 p.m., May 28, 2020.

Effective Date of this Executive Order

This Order shall be effective 12:00 a.m., Friday, May 15, 2020, and further amends Executive Order 55. Unless otherwise expressly provided herein, this Order shall remain in full force and effect until 11:59 p.m., Thursday, May 28, 2020, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 14th day of May, 2020.

/s/ Ralph S. Northam
Governor

EXECUTIVE ORDER NUMBER SIXTY-THREE (2020) AND ORDER OF PUBLIC HEALTH EMERGENCY FIVE

Requirement to Wear Face Covering While Inside Buildings

Importance of the Issue

The Commonwealth of Virginia continues to respond to the novel coronavirus (COVID-19) pandemic. Measures undertaken over the last ten weeks have slowed the spread of the virus; however, its transmission continues to threaten our communities. We must remain vigilant. In fact, as we reopen Virginia, it is critical that we become even more vigilant. Studies of the virus show that a substantial number of individuals with coronavirus are asymptomatic. In addition, individuals who contract the virus may still transmit the virus to others before ever showing symptoms. Therefore, a person with no symptoms of the virus could spread it by speaking, coughing, or sneezing. As more people venture back to businesses, employees are put in a vulnerable position when patrons come in without a face covering. We must make sure workers are safe as they interact with customers. Science shows us that face coverings can help stop the spread of the virus. That is why the Centers for Disease Control and Prevention (CDC) recommends wearing cloth face coverings, even those made from household items or common materials in public settings. I strongly urge all Virginians to wear face coverings when leaving their homes. But as to indoor settings to which the public has access, mere encouragement is not enough to protect the health and safety of Virginians.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Amended Executive Order 51, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the Code of Virginia, the following is ordered:

A. Face Coverings Required-Patrons

All patrons in the Commonwealth aged ten and over shall when entering, exiting, traveling through, and spending time inside the settings listed below cover their mouth and nose with a face covering, as described and recommended by the CDC:

1. Personal care and personal grooming businesses, including but not limited to, beauty salons, barbershops,

spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are provided.

2. All brick and mortar retail businesses, including both essential and non-essential brick and mortar retail businesses, as delineated in Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020).

3. Food and beverage establishments, including but not limited to, restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets, when permitted to reopen for indoor dining.

4. Entertainment or recreation businesses, including but not limited to, racetracks, historic horse racing facilities, theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers, bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums, zoos, escape rooms, public and private social clubs, and all other places of indoor public amusement, once permitted to reopen to the public. Face coverings shall also be required when patrons are outdoors at these businesses if a distance of six feet from every other person cannot be maintained.

5. Train stations, bus stations, and intrastate public transportation, including buses, rideshares, trains, taxis, and cars for hire, as well as any waiting or congregating areas associated with boarding public transportation. This requirement shall not apply in any area under federal jurisdiction or control.

6. Any other indoor place shared by groups of people who are in close proximity to each other. This restriction does not apply to persons while inside their residence or the personal residence of another. Face coverings may be removed to participate in a religious ritual.

7. State or local government buildings when accessed for the purpose of securing public services, with the exception of students in daycare centers or participating in-person classes in K-12 education or institutions of higher education.

B. Face Coverings Required-Employees of Essential Retail Businesses

All employees of essential retail businesses as listed in Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020), section C, paragraph 1 shall wear a face covering whenever working in customer facing areas. Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020) is so further amended.

C. Enforcement

The Virginia Department of Health shall have authority to enforce this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia. No minor shall be subject to criminal penalty for failure to wear a face covering. Adults accompanying minors should use the adult's best judgment with respect to placing face coverings on a minor between the ages of two through nine while inside the public areas noted above. Adults accompanying minors age 10 through 18 shall use reasonable efforts to prompt the minor to wear face coverings while inside the public areas noted above.

Medical-grade masks and personal protective equipment should be reserved for medical personnel. The use of cloth face coverings does not replace the need to maintain six feet of physical social distancing, clean and disinfect frequently touched surfaces routinely in all public settings, stay home when sick, and practice frequent handwashing.

D. Exceptions

The requirement to wear a face covering does not apply to following:

1. While eating or drinking;
2. Individuals exercising or using exercise equipment;
3. Any person who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
4. Any person seeking to communicate with the hearing impaired and for which the mouth needs to be visible;
5. When temporary removal of the face covering is necessary to secure government or medical services; and
6. Persons with health conditions that prohibit wearing a face covering. Nothing in this Order shall require the use of a face covering by any person for whom doing so would be contrary to his or her health or safety because of a medical condition.

Any person who declines to wear a face covering because of a medical condition shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

E. Department of Labor and Industry

Except for paragraph B above, this Order does not apply to employees, employers, subcontractors, or other independent contractors in the workplace. The Commissioner of the Virginia Department of Labor and Industry shall promulgate

Governor

emergency regulations and standards to control, prevent, and mitigate the spread of COVID-19 in the workplace. The regulations and standards adopted in accordance with §§ 40.1-22(6a) or 2.2-4011 of the Code of Virginia shall apply to every employer, employee, and place of employment within the jurisdiction of the Virginia Occupational Safety and Health program as described in 16 Va. Admin. Code § 25-60-20 and Va. Admin. Code § 25-60-30. These regulations and standards must address personal protective equipment, respiratory protective equipment, and sanitation, access to employee exposure and medical records and hazard communication. Further, these regulations and standards may not conflict with requirements and guidelines applicable to businesses set out and incorporated into Amended Executive Order 61 and Amended Order of Public Health Emergency Three.

Effective Date of this Executive Order

This Order is in furtherance of Amended Executive Order 51 (2020) and Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020). Further, this Order shall be effective 12:00 a.m., Friday, May 29, 2020, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 26th day of May, 2020.

/s/ Ralph S. Northam
Governor

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 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 period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for 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.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: [Division of Rehabilitative Services Purchasing Policies Chapter 14.1.](#)

Public Comment Deadline: July 8, 2020.

Effective Date: July 9, 2020.

Agency Contact: Leah Mills, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 370-8770, or email leah.mills@dars.virginia.gov.

* * *

Title of Document: [State Plan for Assistive Technology, Fiscal Years 2018-2020.](#)

Public Comment Deadline: July 8, 2020.

Effective Date: July 9, 2020.

Agency Contact: Charlotte Arbogast, Senior Policy Advisor, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Title of Document: [Guidance for Risk Management.](#)

Public Comment Deadline: July 8, 2020.

Effective Date: August 27, 2020.

Agency Contact: John Cimino, Legal and Regulatory Coordinator, Office of Licensing, Department of Behavioral Health and Developmental Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 298-3279, or email john.cimino@dbhds.virginia.gov.

STATE BOARD OF EDUCATION

Title of Document: [Board of Education Guidelines and Standards of Learning for Virginia Public Schools: Family Life Education.](#)

Public Comment Deadline: July 8, 2020.

Effective Date: July 9, 2020.

Agency Contact: Dr. Samantha Hollins, Assistant Superintendent for Special Education and Student Services, Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-8079, or email samantha.hollins@doe.virginia.gov.

MOTOR VEHICLE DEALER BOARD

Title of Document: [Dealer Tag Liability Insurance Requirement.](#)

Public Comment Deadline: July 8, 2020.

Effective Date: July 9, 2020.

Agency Contact: William Childress, Executive Director, Motor Vehicle Dealer Board, 2201 West Broad, Suite 104, Richmond, VA 23220, telephone (804) 367-1100 ext. 3002, or email william.childress@mvdv.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

Title of Document: [The Virginia Driver Improvement Program: Moving Violations and Point Assessments.](#)

Public Comment Deadline: July 8, 2020.

Effective Date: July 9, 2020.

Agency Contact: Melissa K. Velazquez, Legislative Manager, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-1844, or email melissa.velazquez@dmv.virginia.gov.

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 18, 2020

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2019-00182

Ex Parte: In the matter concerning the implementation of a pilot program for municipal net energy metering

ORDER

Chapters 746 and 747 of the 2019 Virginia Acts of Assembly (the "Act") amended the Code of Virginia by adding a new § 56-585.1:8 to provide for a pilot program for municipal net energy metering in the service territories of Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") and Appalachian Power Company. The Act became effective July 1, 2019.

The Act instructed the State Corporation Commission ("Commission"), by December 1, 2019, to adopt such rules or establish such guidelines as may be necessary for its general administration of the pilot program. On November 1, 2019, the Commission issued an Order for Comments on Draft Guidelines, which included draft guidelines ("Proposed Guidelines") to govern the pilot programs required by the Act, and invited comments from interested parties on or before November 15, 2019. Comments were filed by several entities, and at least one commenter requested additional time to file suggested amendments to the Proposed Guidelines.

Mindful of the December 1, 2019 statutory deadline, on November 25, 2019, the Commission entered an order adopting the Proposed Guidelines as of the date of that order, subject to modification following additional substantive comments by interested persons, to be filed on or before January 15, 2020. The Commission received additional comments from the VML/VACo APCo Steering Committee and Dominion.

NOW THE COMMISSION, upon consideration of the foregoing, finds that it is appropriate to receive comments from the Commission Staff ("Staff"). We, therefore, direct the Staff to file a Staff Report in this docket analyzing the Proposed Guidelines and all substantive comments received thereon, including a discussion of any proposed amendments to the guidelines.

Accordingly, IT IS ORDERED THAT:

(1) The Staff shall analyze the substantive comments received in response to the Commission's Proposed Guidelines as set forth herein and present its findings in a Staff Report to be filed on or before July 31, 2020.

(2) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Availability of and Public Comment on the 2020 Water Quality Assessment Integrated Report

The Virginia Department of Environmental Quality (DEQ) will release the Draft 2020 Water Quality Assessment Integrated Report (Integrated Report) on June 8, 2020, for public comment.

The Integrated Report combines both the § 305(b) Water Quality Assessment and the § 303(d) Report on Impaired Waters. Both are required by the Federal Clean Water Act and the Virginia Water Quality Monitoring Information and Restoration Act. The report will be available for download on the department's website at <https://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityAssessments.aspx> throughout the public comment period, which will end July 9, 2020.

A public webinar summarizing the Integrated Report is scheduled for June 24, 2020. The public is invited to submit questions pertaining to the report during this event. All submitted questions will be addressed in a "FAQ" document that will be subsequently posted on the DEQ webpage. Registration information for the webinar can be found at <https://attendee.gotowebinar.com/register/6736552019723263503>.

Written comments on the draft Integrated Report can be sent to Sandra Mueller, Office of Water Monitoring and Assessment, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, by telephone (804) 698-4324, or by email to sandra.mueller@deq.virginia.gov. Comments should include the commenter's name, postal address, telephone number, and email address.

COMMISSION ON LOCAL GOVERNMENT

Schedule for the Assessment of State and Federal Mandates on Local Governments

Pursuant to the provisions of §§ 2.2-613 and 15.2-2903 of the Code of Virginia, the following schedule, established by the Commission on Local Government and approved by Secretary of Commerce and Trade R. Brian Ball and Governor Ralph S. Northam, represents the timetable that the listed executive agencies will follow in conducting their assessments of certain state and federal mandates that they administer that are imposed on local governments. Such mandates are new (in effect for at least 24 months), newly identified, or have been significantly altered as to warrant a reassessment of the mandate (and have been in effect for 24

months). In conducting these assessments, agencies will follow the process established by Executive Order 58, which became effective October 11, 2007. These mandates are abstracted in the Catalog of State and Federal Mandates on Local Governments published by the Commission on Local Government.

For further information, contact Kristen Dahlman, Senior Policy Analyst, Commission on Local Government, email kristen.dahlman@dhcd.virginia.gov, or telephone (804) 371-7017, or visit the commission's website at www.dhcd.virginia.gov.

STATE AND FEDERAL MANDATES ON LOCAL GOVERNMENTS
 Approved Schedule of Assessment Periods – July 2020 through June 2021
 For Executive Agency Assessment of Cataloged Mandates

AGENCY	CATALOG	ASSESSMENT
Mandate Short Title	NUMBER	PERIOD
AVIATION, DEPARTMENT OF		
Airport Sponsor Financial Reporting	STO.DOAV009	7/1/2020 to 8/1/2020
CRIMINAL JUSTICE SERVICES, DEPARTMENT OF		
Completion of Firearm Training by School Security Officers	SPSHS.DCJS037	10/1/2020 to 12/31/2020
Victims of Crime Act New Initiative Victim Assistance Grant Program	SPSHS.DCJS038	10/1/2020 to 12/31/2020
EDUCATION, DEPARTMENT OF		
Suspension, Expulsion, Exclusion, and Readmission of Pupils	SOE.DOE097	8/1/2020 to 10/31/2020
College and Career Preparation Planning and Programs	SOE.DOE138	8/1/2020 to 10/31/2020
Teacher Misconduct and License Revocation	SOE.DOE154	8/1/2020 to 10/31/2020
School Security Officers	SOE.DOE156	8/1/2020 to 10/31/2020
Abusive Work Environment Policies	SOE.DOE158	8/1/2020 to 10/31/2020
Open Enrollment for Military Students	SOE.DOE159	8/1/2020 to 10/31/2020
Virginia Kindergarten Readiness Assessment	SOE.DOE160	8/1/2020 to 10/31/2020
GAME AND INLAND FISHERIES, DEPARTMENT OF		
Localities Electing into Urban Archery Season	SNR.DGIF010	7/1/2020 to 8/31/2020
HOUSING AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Virginia Growth and Opportunity Act and Fund	SCT.DHCD023	7/1/2020 to 9/30/2020
MOTOR VEHICLES, DEPARTMENT OF		
Notice to Commissioner of Motor Vehicles Upon Seizure of Vehicles	STO.DMV006	8/1/2020 to 10/31/2020
Special License Plates for Professional or Volunteer Firefighters and Members of Volunteer Fire Department Auxiliaries	STO.DMV007	8/1/2020 to 10/31/2020
RAIL AND PUBLIC TRANSPORTATION, DEPARTMENT OF		
Urban Transit Agency Strategic Plans	STO.DRPT022	7/1/2020 to 9/30/2020
SOCIAL SERVICES, DEPARTMENT OF		
Child Protective Services	SHHR.DSS031	1/1/2021 to 4/30/2021
Foster Care Services	SHHR.DSS032	1/1/2021 to 4/30/2021

Approved by the Commission on March 12, 2020

General Notices/Errata

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Intent to Amend the Virginia State Plan for Medical Assistance pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13))

Avoidable Emergency Room Claims and Hospital Readmissions

Comment period: May 20, 2020, through June 19, 2020.

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (12VAC30-70) and Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act. A copy of this notice is available for public review from Emily McClellan, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, or via email at emily.mcclellan@dmas.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Emily McClellan and such comments are available for review at the address provided. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall public comment forum at <https://townhall.virginia.gov>, on the General Notices page at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Reimbursement Changes Affecting Inpatient Hospital Services (12VAC30-70), effective July 1, 2020:

Pursuant to the General Assembly mandate in HB30, Item 313.BBBBB, DMAS will amend the State Plan for Medical Assistance to modify the definition of readmissions to include cases when patients are readmitted to a hospital for the same or a similar diagnosis within 30 days of discharge, excluding planned readmissions, obstetrical readmissions, admissions to critical access hospitals, or in any case where the patient was originally discharged against medical advice. If the patient is readmitted to the same hospital for a potentially preventable readmission then the payment for such cases shall be paid at 50% of the normal rate, except that a readmission within five days of discharge shall be considered a continuation of the same stay and shall not be treated as a new case. Similar diagnoses shall be defined as ICD diagnosis codes possessing the same first three digits.

The total decrease in annual expenditures, including the managed care impact, as a result of these changes is expected to be \$14,786,952 in state fiscal year 2021.

Reimbursement Changes Affecting Other Types of Care (12VAC30-80), effective July 1, 2020:

Pursuant to the General Assembly mandate in HB30, Item 313.AAAAA, DMAS will amend the State Plan for Medical Assistance to allow the pending, reviewing, and reducing of fees for avoidable emergency room claims for codes 99282, 99283, and 99284. Claims for these emergency room procedure codes with diagnoses on the avoidable emergency room diagnosis code list shall default to 99281 for both physician and facility reimbursement.

The total decrease in annual expenditures, including the managed care impact, as a result of these changes is expected to be \$40,441,596 in state fiscal year 2021.

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.

Intent to Amend the Virginia State Plan for Medical Assistance pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13))

2020 Provider Reimbursement Changes

Comment period: May 20, 2020, through June 19, 2020.

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC30-80) and Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act. A copy of this notice is available for public review from Emily McClellan, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, or via email at emily.mcclellan@dmas.virginia.gov.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Emily McClellan and such comments are available for review at the address provided. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall public comment forum at <https://townhall.virginia.gov>, on the General Notices page at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Methods and Standards for Establishing Payment Rates-Other Types of Care (12VAC30-80):

1. In accordance with HB30, Item 313.SSSS(1), the state plan is being revised to increase the rates for agency and consumer directed personal care, respite, and companion services for the Early Periodic Screening, and Diagnosis and Treatment (EPSDT) program by 5.0%. These increases will also affect rates utilized in Home and Community-based Services (HCBS) waivers.

The expected increase in annual aggregate expenditures for EPSDT is \$6,229,299 in state fiscal year 2021, including managed care. The expected increase in total expenditures, including HCBS waivers, is \$49,834,388.

2. In accordance with HB30, Item 313.HHHH, the state plan is being revised to implement a supplemental disproportionate share hospital (DSH) payment for Chesapeake Regional Hospital up to its hospital-specific disproportionate share hospital limit Omnibus Budget Reconciliation Act 1993 DSH limit) as determined pursuant to 42 USC § 1396r-4. The payment shall be made annually based upon the hospital's disproportionate share limit for the most recent year for which the disproportionate share limit has been calculated subject to the availability of DSH funds under the federal allotment of such funds to the department.

The expected increase in annual aggregate expenditures is \$12 million in state fiscal year 2021.

3. In accordance with HB30, Item 313.III(2), the state plan is being revised to create additional hospital supplemental payments for freestanding children's hospitals with greater than 50% Medicaid utilization in 2009 to replace payments that have been reduced due to the federal regulation on the definition of uncompensated care costs effective June 2, 2017. These new payments shall equal what would have been paid to the freestanding children's hospitals under the current DSH formula without regard to the uncompensated care cost limit. These additional hospital supplemental payments shall take precedence over supplemental payments for private acute care hospitals. If the federal regulation is voided, DMAS shall continue DSH payments to the impacted hospitals and adjust the additional hospital supplemental payments authorized in this paragraph accordingly.

There is no expected increase or decrease in annual aggregate expenditures related to this change.

Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90)

4. In accordance with HB30, Item 313.LLLL, the state plan is being revised to establish Specialized Care operating rates for fiscal years 2021 by inflating the fiscal year 2020 rates using Virginia nursing home inflation.

There is no expected increase or decrease in annual aggregate expenditures related to this change.

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.

STATE WATER CONTROL BOARD

Proposed Enforcement Action for Bowers Hill-Chesapeake Inc.

An enforcement action has been proposed for Bowers Hill-Chesapeake Inc. for violations of the State Water Control Law in Chesapeake, Virginia. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. Russell Deppe will accept comments by email at russell.deppe@deq.virginia.gov, FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from June 8, 2020, to July 8, 2020.

Proposed Amendment to the Town of Elkton for the Elkton Sewage Treatment Plant

The State Water Control Board proposes to issue an amendment to the Town of Elkton for the Elkton sewage treatment plant, which includes injunctive relief for a proposed upgrade of the facility. A description of the proposed amendment is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. Eric Millard will accept comments by email at eric.millard@deq.virginia.gov, FAX at (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, from June 8, 2020, to July 8, 2020.

Proposed Consent Order for Guria LLC

An enforcement action has been proposed for Guria LLC for violations of the State Water Control Law and regulations associated with underground storage tanks at the Stafford Liberty facility, located at 1280 Jefferson Davis Highway, Stafford, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the facility. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. Stephanie Bellotti will accept comments by email at stephanie.bellotti@deq.virginia.gov or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from June 9, 2020, through July 9, 2020.

General Notices/Errata

Proposed Enforcement Action for LAP Retail Holdings LLC

An enforcement action has been proposed for LAP Retail Holdings LLC for violations of the State Water Control Law in Yorktown, Virginia. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. Russell Deppe will accept comments by email at russell.deppe@deq.virginia.gov, FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from June 8, 2020, to July 8, 2020.

Proposed Enforcement Action for Oldcastle Infrastructure Inc.

An enforcement action has been proposed for Oldcastle Infrastructure Inc. for violations of the State Water Control Law at the Oldcastle Infrastructure concrete manufacturing facility located in Spotsylvania County, Virginia. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. Jim Datko will accept comments by email at james.datko@deq.virginia.gov or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from June 9, 2020, through July 9, 2020.

Proposed Enforcement Action for the County of Orange

An enforcement action has been proposed for the County of Orange for violations of the State Water Control Law at the Orange County Airport facility located in Orange County, Virginia. A description of the proposed action is available at the Department of Environmental Quality office listed or online at <http://www.deq.virginia.gov/Programs/Enforcement/PublicNotices>. Jim Datko will accept comments by email at james.datko@deq.virginia.gov or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from June 9, 2020, through July 9, 2020.

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.

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.