



VIRGINIA

REGISTER OF REGULATIONS

VOL. 42 ISS. 4

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

October 6, 2025

TABLE OF CONTENTS

Register Information Page	475
Publication Schedule and Deadlines	476
Periodic Reviews and Small Business Impact Reviews	477
Regulations	480
1VAC20-90. Campaign Finance and Political Advertisements (Final)	480
4VAC15-20. Definitions and Miscellaneous: In General (Proposed)	480
4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, etc., of Animals (Proposed)	482
4VAC15-35. Birds: Incidental Take of Bird Species (Proposed)	483
4VAC15-40. Game: In General (Proposed)	486
4VAC15-90. Game: Deer (Proposed)	487
4VAC15-200. Game: Rabbit and Hares (Proposed)	487
4VAC15-240. Game: Turkey (Proposed)	487
4VAC15-275. Game: Hunter Education (Proposed)	487
4VAC15-290. Game: Permits (Proposed)	490
4VAC15-320. Fish: Fishing Generally (Proposed)	491
4VAC15-330. Fish: Trout Fishing (Proposed)	492
4VAC15-340. Fish: Seines and Nets (Proposed)	493
4VAC15-360. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (Proposed)	494
6VAC20-50. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers (Proposed)	494
9VAC20-130. Solid Waste Planning and Recycling Regulations (Forms)	499
9VAC25-820. General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (Proposed)	499
13VAC6-20. Manufactured Housing Licensing and Transaction Recovery Fund Regulations (Proposed)	517
13VAC10-180. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (Proposed)	527
17VAC5-40. Regulations Governing Contextualization of Monuments or Memorials for Certain War Veterans (Final)	541
18VAC25-21. Regulations of the Virginia Auctioneers Board (Final)	543
18VAC90-30. Regulations Governing the Licensure of Advanced Practice Registered Nurses (Final)	545
18VAC90-70. Regulations Governing the Practice of Licensed Certified Midwives (Final)	545
18VAC105-20. Regulations Governing the Practice of Optometry (Final)	548
18VAC110-20. Regulations Governing the Practice of Pharmacy (Final)	550
18VAC110-21. Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians (Final)	522
18VAC110-40. Regulations Governing Collaborative Practice Agreements (Final)	553
18VAC115-80. Regulations Governing the Registration of Qualified Mental Health Professionals (Final)	554
18VAC120-30. Regulations Governing Polygraph Examiners (Final)	554
18VAC135-20. Virginia Real Estate Board Licensing Regulations (Final)	561
18VAC140-30. Regulations Governing the Practice of Music Therapy (Final)	567
20VAC5-304. Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs (Final)	571

THE VIRGINIA REGISTER INFORMATION PAGE

Governor578

General Notices580

Errata586

THE 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 <https://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: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougale; Michael Mullin; Christopher R. Nolen; Steven Popp; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.**

Staff of the Virginia Register: **Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Managing Editor; Erin Comerford, Regulations Analyst**

PUBLICATION SCHEDULE AND DEADLINES

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

October 2025 through November 2026

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
42:5	October 1, 2025	October 20, 2025
42:6	October 15, 2025	November 3, 2025
42:7	October 29, 2025	November 17, 2025
42:8	November 10, 2025 (Monday)	December 1, 2025
42:9	November 24, 2025 (Monday)	December 15, 2025
42:10	December 9, 2025	December 29, 2025
42:11	December 22, 2025 (Monday)	January 12, 2026
42:12	January 6, 2026 (Tuesday)	January 26, 2026
42:13	January 21, 2026	February 9, 2026
42:14	February 4, 2026	February 23, 2026
42:15	February 18, 2026	March 9, 2026
42:16	March 4, 2026	March 23, 2026
42:17	March 18, 2026	April 6, 2026
42:18	April 1, 2026	April 20, 2026
42:19	April 15, 2026	May 4, 2026
42:20	April 29, 2026	May 18, 2026
42:21	May 13, 2026	June 1, 2026
42:22	May 27, 2026	June 15, 2026
42:23	June 10, 2026	June 29, 2026
42:24	June 24, 2026	July 13, 2026
42:25	July 8, 2026	July 27, 2026
42:26	July 22, 2026	August 10, 2026
43:1	August 5, 2026	August 24, 2026
43:2	August 19, 2026	September 7, 2026
43:3	September 2, 2026	September 21, 2026
43:4	September 16, 2026	October 5, 2026
43:5	September 30, 2026	October 19, 2026
43:6	October 14, 2026	November 2, 2026

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Criminal Justice Services Board conducted a periodic review and a small business impact review of **6VAC20-50, Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers** and determined that this regulation should be amended. The Proposed Regulation, which is published in this issue of the Virginia Register, serves as the reports of findings.

Contact Information: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, fax (804) 786-0410, or email kristi.shalton@dcjs.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Criminal Justice Services Board conducted a periodic review and a small business impact review of **6VAC20-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated September 11, 2025, to support this decision.

This regulation remains necessary for the protection of public health, safety, and overall welfare by ensuring public participation according to the Department of Planning and Budget (DPB) model policies. The regulation is clearly written and easily understandable.

No comments were received from the public. However, the agency intends to seek board approval to open a Notice of Intended Regulatory Action (NOIRA) to make a small change to the regulation to conform to legislation identified during the review process and align the regulation with the most recent DPB model public participation guidelines. Since the agency's public participation guidelines were initially promulgated, Chapter 795 of the 2012 Acts of Assembly amended § 2.2-4007.02 B of the Code of Virginia to require that agencies provide interested persons, in accordance with their public participation guidelines, the opportunity to be accompanied by and represented by counsel or another representative when such persons present their input on a regulation.

The continued need for the regulation is established by statute, specifically § 2.2-4007.02 of the Code of Virginia. No complaints or comments were received during the public comment period. The regulation was last evaluated in 2008 when new public participation guidelines were promulgated in

accordance with Chapter 321 of the 2008 Acts of Assembly. This legislation standardized public participation guidelines for executive branch agencies. The resulting public participation guidelines were based on model guidelines provided by DPB and do not appear to have an impact on small businesses.

Contact Information: Lee Bryant, Regulatory Specialist, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-1863, or email lee.bryant@dcjs.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Criminal Justice Services Board conducted a periodic review and a small business impact review of **6VAC20-80, Rules Relating to Certification of Criminal Justice Instructors**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated September 11, 2025, to support this decision.

This regulation is essential to comply with the requirements of subdivision 15 of § 9.1-102 of the Code of Virginia and to protect the public health, safety and welfare by ensuring that instructors meet compulsory minimum standards. The agency has decided to retain the regulation; however, the agency will seek board authorization for a Notice of Intended Regulatory Action (NOIRA) to update the regulation based on staff recommendations.

Subdivision 15 of § 9.1-102 mandates that the agency promulgate the regulation and the continued need for the regulation is established by statute. There were no comments or complaints received during the public comment period. The regulation is neither overly complex nor burdensome. The regulation is clearly written, easily understandable, and it does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated in 2015 when it was amended to update terminology for traffic speed detection instruments.

Contact Information: Lee Bryant, Regulatory Specialist, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-1863, or email lee.bryant@dcjs.virginia.gov.



TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department for Aging and Rehabilitative

Periodic Reviews and Small Business Impact Reviews

Services conducted a periodic review and a small business impact review of **22VAC30-50, Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund**, and determined that this regulation should be retained as is. The agency is publishing its report of findings dated September 9, 2025, to support this decision.

22VAC30-50 guides the administration of the Commonwealth Neurotrauma Initiative (CNI) Trust Fund as authorized by Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 of the Code of Virginia. At the direction of the CNI Advisory Board, funding from the CNI Trust Fund is provided to Virginia-based organizations, institutions, and researchers to support research on the mechanisms and treatment of neurotrauma and in the delivery of rehabilitative services.

The goal of the regulation is to administer the CNI Trust Fund in an efficient, effective, transparent, and consistent manner. The regulation ensures that public funding that is provided for neurotrauma research and related services protects public health, safety, and welfare. The regulation is clearly written and understandable.

This regulation is necessary to comply with statute. The agency received no complaints or comments concerning the regulation. The regulation provides for an efficient, effective, transparent, and consistent process to issue CNI funding, and it does not overlap, duplicate, or conflict with any federal or state law or regulation. The regulation was last reviewed in October 2022.

The CNI Trust Fund provides funding to Virginia-based organizations, institutions, and researchers. The program funds (i) research projects and (ii) community-based rehabilitative programs and services. The CNI Trust Fund Program currently funds seven ongoing projects. Two projects are based in Virginia institutions of higher education. One project is based in a Virginia hospital. Four projects are based in community organizations, all of which are likely small businesses. However, the regulation does not include overly burdensome requirements for those entities seeking to use CNI Trust Fund resources, and many of the entities that have historically received funding would be considered small businesses.

Contact Information: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, fax (804) 662-7663, or email charlotte.arbogast@dars.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department for Aging and Rehabilitative Services conducted a periodic review and a small business impact review of **22VAC30-110, Assessment in Assisted Living Facilities**, and determined that this regulation should

be amended. The agency is publishing its report of findings dated September 4, 2025, to support this decision.

This regulation sets forth standards for assessing individuals who wish to reside in or are residing in assisted living facilities (ALFs). The regulation ensures consistent definitions and actions are applied to all individuals during the ALF assessment and reassessment process. The standards outlined in the regulation focus on ensuring the protection of the health, safety and welfare of adults who need ALF assessments or reassessments for ALF placement. This regulation is clearly written and understandable.

In June 2025, the Virginia Department of Medical Assistance Services (DMAS) repealed regulations for Medicaid targeted case management for auxiliary grant participants in ALFs because the regulations were outdated and no longer aligned with DMAS current practice because Medicaid no longer covers this service. Consistent with the completed action by DMAS and with the provisions of Executive Order 19 (2022) related to reducing regulatory burden, the agency intends to move forward with a fast-track rulemaking action that will repeal provisions in 22VAC30-110.

The regulation is necessary to comply with statutory requirements. The agency received no complaints or comments concerning the regulatory chapter. The regulation outlines standards for ALF assessments and reassessments in a clear and direct manner. The regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. The regulation was last reviewed in June 2021 and has no impact on small businesses.

Contact Information: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, fax (804) 662-7663, or email charlotte.arbogast@dars.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department for Aging and Rehabilitative Services conducted a periodic review and a small business impact review of **22VAC30-130, Adult Services Standards**, and determined that this regulation should be retained as is. The agency is publishing its report of findings dated September 4, 2025, to support this decision.

This regulation addresses the provision of adult services, as defined in § 51.5-146 of the Code of Virginia, by the local departments of social services (LDSS) to adults with impairments, as defined in § 51.5-144 of the Code of Virginia. This regulation describes the targeted service population, eligibility criteria, and types of services that may be offered to an adult, including those designed to allow adults to attain or maintain self-care and prevent or reduce dependency.

Periodic Reviews and Small Business Impact Reviews

The goal of the regulation is to standardize the expectations for LDSS providing adult services and to ensure the protection of public health, safety, and welfare in the delivery of such services. The regulation is clearly written and understandable.

The regulation is necessary to comply with Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 of the Code of Virginia. The agency received no complaints or comments concerning the regulation. The regulation outlines standards for adult services in a clear and transparent manner. The regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. The regulation was last reviewed in June 2021. Small businesses are not impacted by this regulation.

Contact Information: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, fax (804) 662-7663, or email charlotte.arbogast@dars.virginia.gov.

Contact Information: JoAnne P. Maxwell, Agency Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, or email joanne.maxwell@vdot.virginia.gov.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Agency Notice

Pursuant to §§ 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: **24VAC30-551, Integrated Directional Signing Program (IDSP) Participation Criteria** and **24VAC30-630, Rules Governing Person with Disability Traffic Signs**. The reviews will be guided by the principles in Executive Order 19 (2022). The purpose of these reviews is to determine whether the regulations should be repealed, amended, or retained in their current forms. Public comment is sought on the review of any issue relating to the 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 October 6, 2025, and ends October 27, 2025.

Comments must include the commenter's name and address (physical or email) 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.

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 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Final Regulation

Title of Regulation: **1VAC20-90. Campaign Finance and Political Advertisements (adding 1VAC20-90-40).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Ashley Coles, Regulatory Coordinator, Department of Elections, Washington Building, 1100 Bank Street, First Floor, Richmond, VA 23219, telephone (804) 864-8933, or email ashley.coles@elections.virginia.gov.

Summary:

The amendments require a disclosure statement on a political advertisement to (i) be of a sufficient font size to be clearly readable by the recipient of the communication; (ii) be contained in a printed box set apart from the other contents of the communication; and (iii) have a reasonable degree of color contrast with the advertisement background.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

1VAC20-90-40. Disclosure statement requirements; print media advertisements.

A. The following standards apply to print media advertisements under §§ 24.2-956 and 24.2-956.1 of the Code of Virginia.

B. Any disclosure statement required under either § 24.2-956 or 24.2-956.1 of the Code of Virginia must be presented in a clear and conspicuous manner to give the reader notice of the candidate, candidate campaign committee, person, or political committee who paid for and, where required, who authorized the communication. A disclosure statement is not clear and conspicuous if it is difficult to read or if the placement is easily overlooked.

C. The disclosure statement must be of sufficient type size to be clearly readable by the recipient of the communication. A disclosure statement in 12-point type size satisfies the requirements of this subsection when it is used for signs, posters, flyers, newspapers, magazines, or other printed materials that measure no more than 24 inches by 36 inches.

D. The disclosure statement must be contained in a printed box set apart from the other contents of the communication.

E. The disclosure statement must be printed with a reasonable degree of color contrast between the background and the disclosure statement. A disclosure statement satisfies the color contrast requirement of this subsection if it is printed in black text on a white background or if the degree of color contrast between the background and the text of the disclosure statement is no less than the color contrast between the background and the largest text used in the communication.

F. The disclosure statement need not appear on the front or cover page of the communication as long as it appears within the communication, except on communications, such as billboards, that contain only a front face.

G. A communication that would require a disclosure statement, if distributed separately, that is included in a package of materials, must contain the required disclosure statement.

VA.R. Doc. No. R21-6850; Filed September 3, 2025, 1:14 p.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF WILDLIFE RESOURCES

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-20. Definitions and Miscellaneous: In General (amending 4VAC15-20-100, 4VAC15-20-155, 4VAC15-20-160, 4VAC15-20-210; repealing 4VAC15-20-110).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments (i) remove a mandate describing motor vehicle use on department-owned lands; (ii) repeal a section providing requirements for paper licenses and records; and (iii) remove redundant text and text that restates statute.

4VAC15-20-100. Prohibited use of vehicles on department-owned lands.

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. ~~Any motor driven vehicle shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by department authorized personnel on department-owned lands.~~ Nothing in this section shall be construed to prohibit the use of Class one or Class two electric power-assisted bicycles as defined in § 46.2-100 of the Code of Virginia where traditional bicycles are allowed. Class three electric power-assisted bicycles as defined in § 46.2-100 are prohibited. Nothing in this section shall be construed to prohibit the department from allowing the use of wheelchairs or other power-driven mobility devices by individuals with mobility disabilities in accordance with the federal Americans with Disabilities Act of 1990 (P.L. 101-336, 104 Stat. 327).

For the purposes of this section, the term "wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor, locomotion. "Other power-driven mobility device" means any mobility device powered by batteries, fuel, or other engines, whether or not designed primarily for use by individuals with mobility disabilities, that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistive mobility devices, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

~~4VAC15-20-110. Refusal to surrender licenses, permits, stamps, or records to department representatives. (Repealed.)~~

~~No agent, or any other person for him, in possession of issued or unissued hunting, fishing or trapping licenses, permits, stamps, or records pertaining to them, shall refuse to surrender upon demand such licenses, permits, stamps or records to department representatives authorized by the director to take such licenses, permits, stamps, and records into custody.~~

4VAC15-20-155. Camping on Wildlife Management Areas and other department-owned or department-managed lands.

~~A. Temporary dispersed camping, with no amenities provided, may only be performed on Wildlife Management~~

~~Areas (WMAs) and other department owned or managed lands when occupants are engaged in authorized activities and in strict compliance with established terms and conditions, including those listed in this section. Camping may be prohibited on certain portions or entire parcels of department-owned or managed lands, including certain WMAs.~~

~~B. A. Authorization.~~ It shall be unlawful to camp without ~~written authorization from the department. Written authorization to camp is required in addition to any and all other licenses, permits, or authorizations that may otherwise be required. Written authorization is obtained by completing and submitting a Camping Authorization Form. Only an individual 18 years of age or older who is a member of and accepts responsibility for the camp and camping group may be issued a camping authorization.~~

~~C. B. Camping periods.~~ Unless otherwise posted or authorized, it shall be unlawful to camp for more than 14 consecutive nights, or more than 14 nights in a 28-day period on department-owned or controlled lands. ~~At the end of the authorized camping period, all personal property and any refuse must be removed.~~

~~D. C. Allowed and prohibited locations.~~ Back country camping is allowed. Adjacent to roadways, camping is allowed only in previously cleared areas. No vegetation may be cut, damaged, or removed to establish a campsite. Enclosed camping trailers or camping vehicles are allowed if they do not occupy the entire available parking area in that location. It shall be unlawful to camp within 300 feet of any department-owned lake, boat ramp, or other facility. It shall be unlawful to camp at other specific locations as posted. This section shall not prohibit active angling at night along shorelines where permitted.

~~E. D. Removal of personal property and refuse.~~ Any person who establishes or occupies a camp shall be responsible for the complete removal of all personal property and refuse when the camping authorization has expired. Any personal property or refuse that remains after the camping authorization has expired shall be considered litter and punishable pursuant to § 33.2-802 of the Code of Virginia.

~~F. E.~~ It shall be unlawful when camping on department-owned or ~~managed~~ department-managed lands to store or leave unattended any food (including food for pets and livestock), refuse, bear attractant, or other wildlife attractant unless it is (i) in a bear-resistant container; (ii) in a trunk of a vehicle or in a closed, locked, hard-sided motor vehicle with a solid top; (iii) in a closed, locked, hard-body trailer; or (iv) suspended at least 10 feet clear of the ground at all points and at least four feet horizontally from the supporting tree or pole and any other tree or pole. It shall be unlawful to discard, bury, or abandon any food, refuse, bear attractant, or other wildlife attractant unless it is disposed of by placing it inside an animal-resistant trash receptacle provided by the department.

Regulations

~~G. E.~~ Any violation of this section or other posted rules shall be punishable as a Class III misdemeanor, and the camping permit shall become null and void. The permittee shall be required to immediately vacate the property upon summons or notification. A second or subsequent offense may result in the loss of camping privileges on department-owned or managed properties.

4VAC15-20-160. Nuisance species designated.

~~A.~~ The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals.
 - a. House mouse (*Mus musculus*);
 - b. Norway rat (*Rattus norvegicus*);
 - c. Black rat (*Rattus rattus*);
 - d. Coyote (*Canis latrans*);
 - e. Feral hog (*Sus scrofa*; any swine that are wild or for which no proof of ownership can be made);
 - f. Nutria (*Myocastor coypus*); and
 - g. Woodchuck (*Marmota monax*).
2. Birds.
 - a. European starling (*Sturnus vulgaris*);
 - b. English (house) sparrow (*Passer domesticus*); ~~and~~
 - c. Pigeon (Rock Dove) (*Columba livia*); ~~and~~
 - d. Other nonnative species as defined in the Migratory Bird Treaty Reform Act of 2004 and regulated under 50 CFR 10.13.

~~B. It shall be unlawful to take, possess, transport, or sell all other wildlife species not classified as game, furbearer or nuisance, or otherwise specifically permitted by law or regulation.~~

4VAC15-20-210. Definitions; nonindigenous aquatic nuisance species.

~~A.~~ In addition to the species already listed in § 29.1-571 of the Code of Virginia, the board hereby designates the following species as nonindigenous aquatic nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Fish.
 - a. Black carp (*Mylopharyngodon piceus*)
2. Invertebrates.
 - a. New Zealand mudsnail (*Potamopyrgus antipodarum*)
 - b. Rusty crayfish (*Orconectes rusticus*)
 - c. Chinese mitten crab (*Eriocheir sinensis*)
 - d. Marbled crayfish (*Marmorkrebs* – genus *Procambarus*)

~~B. It shall be unlawful to take, possess, transport, import, sell, or offer for sale within the Commonwealth any nonindigenous~~

~~aquatic nuisance species except as authorized by law or regulation.~~

VA.R. Doc. No. R26-8431; Filed September 3, 2025, 10:07 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, etc., of Animals (amending 4VAC15-30-40; repealing 4VAC15-30-10).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments (i) repeal 4VAC15-30-10 because the provisions contained in that section duplicate statute and (ii) remove an unnecessary provision regarding snakehead fish exemptions.

4VAC15-30-10. Possession, importation, sale, etc., of wild animals. (Repealed.)

~~Under the authority of §§ 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, conduct research, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale, or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.~~

4VAC15-30-40. Importation requirements, possession, and sale of nonnative (exotic) animals.

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell those nonnative (exotic) animals listed in the following table and in 4VAC15-20-210 that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia.

EDITOR'S NOTE: The table in 4VAC15-30-40 A is not being amended; therefore, the table is not set out.

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A of this section, a person, company, or corporation possessing any nonnative (exotic) animal designated with an asterisk (*) in subsection A of this section prior to July 1, 1992, must have proof that the animal was declared to the department in writing prior to January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date or dates acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tattoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. No permit is required for monk parakeets (quakers) that have been captive bred and are closed-banded with a seamless band.

D. Exception for parts or products. No permit is required for parts or products of those nonnative (exotic) animals listed in subsection A of this section that may be used for personal use, in the manufacture of products, or in scientific research, provided that such parts or products are packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened, and intact until its point of destination is reached. The person, business, or institution ordering such nonnative (exotic) animal parts shall keep documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving. Such documentation shall be open to inspection by a representative of the Department of Wildlife Resources.

~~E. Exception for snakehead fish. Anglers may legally harvest snakehead fish of the family Channidae, provided that they immediately kill such fish.~~

~~F. E. Exception for feral hogs. Anyone may legally trap feral hogs with written permission of the landowner, provided that any trapped hogs are not removed from the trap site alive and are killed immediately.~~

~~G. F. Exception for grass carp. Anglers may legally harvest grass carp of the family Cyprinidae only from public waters of the Commonwealth. It is unlawful to harvest grass carp from any public inland lake or reservoir. Anglers taking grass carp must ensure that harvested grass carp are dead.~~

~~H. G. Exception for Alabama bass. Anglers may possess live Alabama bass of the family Centrarchidae only on the body of water from which the fish were captured, provided that the angler does not live transport these fish outside of the body of water from which the fish were captured. Anglers may only~~

release live Alabama bass back into the body of water from which the fish were captured. Anglers may legally harvest Alabama bass, provided that the anglers ensure all harvested Alabama bass are dead.

~~I. H. All other nonnative (exotic) animals. All other nonnative (exotic) animals not listed in subsection A of this section may be possessed, purchased, and sold, provided that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened and endangered species, and that no such animals shall be liberated within the Commonwealth.~~

VA.R. Doc. No. R26-8432; Filed September 3, 2025, 10:08 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-35. Birds: Incidental Take of Bird Species (amending 4VAC15-35-80).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments remove general information required in the application for a permit authorizing incidental take of regulated bird species.

4VAC15-35-80. Permit procedures.

~~A. Required general information. A permit application must contain the following information: be completed and submitted to the department.~~

~~1. Applicant's full name and address, telephone number, and, if available, fax number and email address;~~

~~a. If the applicant resides or is located outside of the Commonwealth of Virginia, the name and address of an agent located in the Commonwealth of Virginia; and~~

~~b. If the applicant is an entity, a description of the type of entity and the name and title of an individual who will be responsible for the permit;~~

~~2. Location of the regulated activity;~~

~~3. Certification in the following language: "I hereby certify that the information submitted in this application is complete and accurate to the best of my knowledge and belief";~~

Regulations

~~4. Desired effective date of the permit except where issuance date is fixed by the sector-specific plan under which the permit is issued;~~

~~5. Desired duration of the permit, if less than the default term for the sector-specific plan under which the general or individual incidental take permit is requested;~~

~~6. Date of application;~~

~~7. Signature or electronic signature of the applicant; and~~

~~8. Such other information or documentation as may be required by the applicable sector-specific plan.~~

B. Administrative procedures.

1. The department shall determine the completeness of an application and shall notify the applicant of any determination within 45 calendar days of receipt. Where available to the applicant, electronic communication may be considered communication in writing.

a. If, within those 45 calendar days, the application is deemed to be incomplete, the applicant shall be notified in writing of the reasons the application is deemed incomplete. If the application is resubmitted, all deadlines in this section shall apply from the date of receipt of the resubmitted application.

b. If a determination of completeness is made and the associated sector-specific plan does not require additional department review, the application is deemed approved and the applicant will be notified in writing.

c. If a determination of completeness is not made and communicated to the applicant within 45 calendar days of receipt, the application shall be deemed complete on the 46th day after receipt.

d. If the application is complete and the associated sector-specific plan requires additional department review, the department will take no more than 120 days to review. Bundled projects subject to prior approval of biennial standards and specifications as described in 4VAC15-35-90 may take up to 180 days. If, at the end of the designated review period, the department has not taken final action on the application or notified the applicant in writing of the need for an additional 60 days for review, the application shall be deemed approved.

2. During the review period, the application shall be approved or disapproved, and the decision communicated in writing to the applicant. If the application is not approved, the reasons for not approving the application shall be provided in writing. Approval or denial shall be based on the application's compliance with the requirements of this chapter and the applicable sector-specific plan.

a. If the application is not approved, the applicant shall have 45 calendar days to revise the permit application to bring it into compliance with the appropriate sector-specific plan or to appeal the decision to the director of the

department under the department's dispute resolution and administrative appeals procedure. The applicant may request, in writing, an extension of the timeframe in which to submit a revised application, not to exceed an additional 60 calendar days. If the revised application is not submitted within the defined timeframe, the department will administratively close the application.

b. Upon submission of a revised application after denial, the department shall have 120 days to review and make a determination. If the application is denied again, the applicant will have 45 days after denial to appeal the decision to the director of the department under the department's dispute resolution and administrative appeal procedure. Any new revisions to the permit must be submitted as a new application.

3. Upon approval of an application for an individual incidental take permit, the department will provide the applicant with a permit, including terms and conditions. The applicant shall have 30 calendar days to appeal terms and conditions to the department director under the department's dispute resolution and administrative appeals procedures.

C. Permit issuance.

1. Denial. The department shall not issue a permit if:

a. The applicant has one or more of the disqualifying factors included in subdivision 2 of this subsection;

b. The applicant has failed to disclose material information or has made false statements as to any material fact in connection with the application; or

c. The department determines that the application fails to comply with the applicable sector-specific plan or any other applicable wildlife law, regulation, or ordinance.

2. Disqualifying factors. The department will provide written notice of any known disqualifying factors to the applicant. Any one of the following will disqualify an applicant from receiving or exercising a permit:

a. A conviction of, or entry of a plea of guilty or nolo contendere by, the applicant or a representative of the applicant for a violation of the Lacey Act (16 USC § 3371 et seq.); the federal Migratory Bird Treaty Act (16 USC § 668 et seq.); the federal Bald and Golden Eagle Protection Act (16 USC § 668 et seq.); the federal Endangered Species Act (16 USC § 1531 et seq.); the Virginia Endangered Species Act (§ 29.1-563 et seq. of the Code of Virginia); or this chapter within the five-year period preceding the application, unless such disqualification has been expressly waived by the department in response to a request by the applicant.

b. The failure to pay any required fees.

c. The suspension of any other incidental take permit. The applicant is disqualified from receiving any additional incidental take permits as long as the suspension exists.

3. Fees. An application fee of \$50 and a permit fee of \$50 per year shall be due for each permit. ~~The application fee shall be due at the time of application submittal, and no~~ No application shall be processed until the fee is received. ~~The full amount of the permit fee shall be based on the default duration of the permit and is due at the time of certification if no approval is required. If the department's approval is required, the full amount of the permit fee is due upon approval or issuance of a permit. The fees will be deposited into the Nongame Cash Fund and used for the conservation and management of regulated bird species consistent with § 58.1-344.3 of the Code of Virginia. No refund of any fees paid shall be made if a permit application is denied or if a permit is terminated prior to the expiration date.~~

4. Permit renewal. Applications for renewal shall meet and comply with all requirements for permit application and be submitted at least 90 calendar days prior to the expiration of an existing permit.

5. Modifications to permits. Permits may be modified with the department's approval in accordance with the following:

a. Applicant's request. Where circumstances have changed so that an applicant desires to have any condition of the permit modified, the applicant must submit a full written justification and supporting information to the department in conformity with the terms and conditions under which the permit was issued.

b. Department determination. The department may amend any permit during its term where circumstances have changed such that amendments to the permit are deemed necessary by the department. In such instances, the department will notify the applicant in writing 60 calendar days in advance of the effective date of any amendment. The applicant shall have 30 calendar days to appeal the decision to the department director under the department's dispute resolution and administrative appeals procedures.

6. Transfer of permits and scope of permit authorization.

~~a. Except as otherwise provided for in this subsection, permits issued under this part are not transferable or assignable.~~

~~b. a.~~ Permits may be transferred in whole or in part through a joint submission by the applicant and the proposed transferee, or, in the case of a deceased applicant, the deceased applicant's legal representative and the proposed transferee. The department will review the submission and approve the transfer provided that:

(1) The proposed transferee meets all of the qualifications under this part for holding a permit; and

(2) The proposed transferee has provided adequate written assurances that it will implement the relevant terms and conditions of the permit; ~~and~~

~~(3) The proposed transferee has provided other information that the department determines is relevant to the processing of the submission.~~

~~e. b.~~ Except as otherwise stated on the face of the permit, any person who is under the direct control of the applicant or who is employed by or under contract to the applicant for purposes authorized by the permit may carry out the activity authorized by the permit. However, the applicant will remain responsible for ensuring compliance with all aspects of the permit.

7. Discontinuance of permit activity. When an applicant discontinues activities authorized by a permit, the applicant shall ~~within 30 calendar days of the discontinuance~~ notify the department of permit termination within 30 calendar days of the discontinuance.

8. Permit inspections. The department shall have the right to perform inspections of a permitted activity to ensure compliance with permit conditions. Written, including electronic, or verbal notice of such inspection shall be given on a business day, and the inspection shall ~~not~~ occur no less than one and no more than five business days from the date of the notice, except when the department determines that an emergency inspection is necessary.

9. Permit suspension and revocation.

a. Criteria for suspension. The privileges of exercising some or all of the permit authority may be suspended at any time if the applicant is not in compliance with the conditions of the permit, the sector-specific plan, or any applicable laws or regulations governing the conduct of the regulated activity. Such suspension shall remain in effect until the department determines that the applicant has corrected the deficiencies.

b. Criteria for revocation. A permit may be revoked for any of the following reasons:

(1) The applicant willfully violates any provision of the Virginia Endangered Species Act (§ 29.1-563 et seq. of the Code of Virginia); the federal Migratory Bird Treaty Act (16 USC § 703 et seq.); the federal Bald and Golden Eagle Protection Act (16 USC § 668 et seq.); the federal Endangered Species Act (16 USC § 1531 et seq.); or the conditions or a permit issued under those acts or this chapter; or

(2) The applicant fails within 60 calendar days to correct deficiencies that were the cause of a permit suspension.

c. Procedure for suspension and revocation.

(1) The applicant shall be notified in writing of the suspension or revocation by certified or registered mail. This notice shall identify the permit to be suspended, the reasons for such suspension, and the actions necessary to correct the deficiencies and inform the applicant of the right to appeal the suspension. The department may amend any notice of suspension or revocation at any time.

Regulations

(2) The applicant shall be provided with an opportunity to appeal the suspension or revocation within 30 calendar days of mailing the suspension or revocation notice. Appeal may be requested by filing a written objection specifying the reasons the applicant objects to the suspension or revocation and may include supporting documentation. Amendment of a notice of suspension or revocation will allow the applicant another 30 calendar days to appeal the decision from the date of mailing notice of the amendment if ~~they have~~ the applicant has not already initiated an appeal.

(3) If, at the end of 30 calendar days, no appeal has been received by the department, a final order shall be issued suspending or revoking the permit.

(4) If the applicant timely submits an appeal, an informal fact-finding proceeding will be held within 30 calendar days, or at the option of the department or the applicant, a formal hearing may be scheduled as soon as may be practicable.

(5) Following an informal fact-finding proceeding or formal hearing, a final decision shall be made by the director within 30 calendar days of the informal fact-finding proceeding or receipt of a recommendation by any hearing officer.

V.A.R. Doc. No. R26-8433; Filed September 3, 2025, 10:09 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4VAC15-40. **Game: In General (amending 4VAC15-40-200, 4VAC15-40-260, 4VAC15-40-280).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments (i) prohibit baited body-gripping traps on public lands; (ii) remove language prohibiting hunting of pen-raised game birds on Sunday; and (iii) remove a statement reiterating that in addition to an annual or lifetime hunting license and a big game tag, hunters who utilize Public Access Lands for Sportsmen must obtain a permit to hunt on lands managed by the department.

4VAC15-40-200. Restricted use of above ground body-gripping traps in excess of five inches.

It shall be unlawful to set above the ground any body-gripping

trap with a jaw spread in excess of five inches when using any bait, lure, or scent; ~~provided, (i) that baited body-gripping traps with a jaw spread up to 7-1/2 inches may be used when the trap is within an enclosure with openings no greater than 60 square inches and the trap trigger is recessed at least 12 inches from all openings; provided further and (ii) that such traps must be staked to prevent them from turning over and may only not be used on private public lands with written permission of the landowner.~~

4VAC15-40-260. Sunday hunting on controlled shooting areas.

~~A. Except as otherwise provided in the sections appearing in this chapter, it shall be lawful to hunt pen-raised game birds seven days a week as provided by § 29.1-514 of the Code of Virginia. The length of the hunting season on such preserves and the size of the bag limit shall be in accordance with rules of the board. For the purpose of this chapter, controlled shooting areas shall be defined as licensed shooting preserves.~~

~~B. It shall be unlawful to hunt pen-raised game birds on Sunday on controlled shooting areas in Augusta County or in any county or city which prohibits Sunday operation by ordinance.~~

4VAC15-40-280. Department-owned, controlled, or managed lands; annual permit for hunting on lands managed by the department.

A. The open seasons for hunting and trapping, as well as hours, methods of taking, and bag limits for department-owned or department-controlled lands, or lands managed by the department under cooperative agreement, shall conform to the regulations of the board, unless excepted by posted rules established by the director or ~~his~~ the director's designee. Such posted rules shall be displayed at each recognized entrance to the land where the posted rules are in effect.

B. Department-owned lands shall be open to the public for wildlife observation and for hunting, fishing, trapping, and boating (as prescribed by 4VAC15-320-100) under the regulations of the board. Other activities deemed appropriate by the director or ~~his~~ the director's designee may be allowed by posted rules, by written authorization from the director or ~~his~~ the director's designee, or by special permit.

C. No person shall hunt on lands managed by the department through a lease agreement or other similar memorandum of agreement where the department issues an annual hunting permit without having purchased a valid annual hunting permit. ~~The annual hunting permit shall be in addition to the required licenses to hunt, and the cost of such permit shall be the same as the cost of the annual state resident hunting license in § 29.1-303 of the Code of Virginia.~~

D. Activities that are not generally or specifically authorized in accordance with subsections A through C of this section are prohibited and shall constitute a violation of this regulation.

V.A.R. Doc. No. R26-8434; Filed September 3, 2025, 10:10 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-90. Game: Deer (amending 4VAC15-90-280).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendment removes unnecessary regulatory text requiring that muscle tissue not be attached to the saleable pieces of a cervid, which restates a prohibition in § 29.1-521 of the Code of Virginia.

4VAC15-90-280. Sale of cervid parts and cervid mounts.

~~Provided that no extraneous muscle tissue is attached, it~~ It shall be lawful to purchase or sell the hair, hide, tail, sinew, skull, antlers, bones, and feet of a legally possessed cervid carcass or cervid carcass part, any products made from these deer parts, and cervid mounts.

VA.R. Doc. No. R26-8435; Filed September 3, 2025, 10:11 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-200. Game: Rabbit and Hares (amending 4VAC15-200-60).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendment eliminates redundant language in the regulation.

4VAC15-200-60. Disposal of wild rabbit parts.

~~No wild rabbit carcasses or carcass parts may be discarded or disposed of directly on the ground. All such wild rabbit~~

carcasses or carcass parts must be buried at least two feet below ground, incinerated, or securely bagged and discarded in household trash for ultimate disposal in a permitted landfill.

VA.R. Doc. No. R26-8436; Filed September 3, 2025, 10:11 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-240. Game: Turkey (amending 4VAC15-240-70).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments (i) remove the fall harvest cap of two turkeys and (ii) limit beardless (female) turkey harvest in a license year season to one in order to protect population numbers.

4VAC15-240-70. Bag limit.

The bag limit for hunting turkeys shall be one a day, three a license year, no more than ~~two~~ one of which may be ~~taken in the fall~~ beardless.

VA.R. Doc. No. R26-8442; Filed September 3, 2025, 10:12 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-275. Game: Hunter Education (amending 4VAC15-275-10 through 4VAC15-275-40, 4VAC15-275-60, 4VAC15-275-80; repealing 4VAC15-275-70, 4VAC15-275-90, 4VAC15-275-100).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Regulations

Summary:

The proposed amendments (i) consolidate recordkeeping requirements with certificate requirements; (ii) update the version of International Hunter Education Association (IHEA)-USA Standards, a document incorporated by reference, and a required form; (iii) remove test format and question number requirements; (iv) allow hunters to show proof of completion of a hunter education course instead of a certificate; and (v) eliminate language that is redundant to internal policy or IHEA-USA standards.

4VAC15-275-10. Application.

This chapter applies to any person who has never obtained a license to hunt in any state or country or any person who is younger than 16 years of age, unless such a person presents to the Department of Wildlife Resources or one of its authorized license vendors a certificate of completion or proof of completion in hunter education issued or authorized by the director or the director's representative under the hunter education program or proof that ~~he~~ the person holds the equivalent certificate obtained from an authorized agency or association of another state or country.

4VAC15-275-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly requires a different meaning:

"Accompanied and directly supervised" means, in the case of an apprentice hunter, that a licensed person older than 18 years of age maintains a close visual and verbal contact with, provides adequate direction to, and can immediately assume control of the firearm from the apprentice hunter. In the case of a hunter 12 years of age or younger, the term means that the licensed adult is within sight of the person ~~the age of~~ younger than 12 years of age.

"Adult" means the parent or legal guardian of the person ~~age~~ younger than 12 years of age, or ~~such a person the age of~~ older than 18 years of age designated by the parent or legal guardian.

"Approved course provider" is any individual, business, or organization that makes available to the hunting public a hunter education course that is approved by ~~the International Hunter Education Association—United States (IHEA-USA)~~ and is accepted by the department. An approved course provider shall have executed and have on file a valid cooperative agreement with the department. The department will make information regarding such approved courses and providers readily available for public access.

"Board" means the Board of Wildlife Resources.

"Department" means the Department of Wildlife Resources.

"Hunter education course" means a course offered in the classroom, through the Internet, or through an electronic format that provides course content and test questions that at a

minimum meet the International Hunter Education Association-USA Education Standards, ~~May 2, 2014~~ December 13, 2024, set forth by ~~the International Hunter Education Association—USA (IHEA-USA)~~ and are accepted by the department. ~~A hunter education course shall include no less than 50 test questions, which shall include at least eight test questions specific to Virginia hunting laws.~~

"IHEA-USA" means the International Hunter Education Association-USA.

"Virginia Hunter Education Card" means a card authorized for issuance by the department to a person who has met the minimum standard of hunter education course competency. This card may be issued as an original or a replacement hunter education course card.

4VAC15-275-30. Provisions for compliance and minimum standards for hunter education course competency.

A. A person shall be considered in compliance with the requirements for hunter education if ~~he the person~~ he meets one or more of the following provisions pursuant to § 29.1-300.2 of the Code of Virginia:

1. Completes and passes a hunter education course that is accepted by the department including a fully online course;
2. Is 16 years of age or older and has previously held a license to hunt in any state or country;
3. Is ~~under the age of~~ younger than 12 years of age and is accompanied and directly supervised by an adult who holds a valid Virginia hunting license; or
4. Holds a Virginia apprentice hunting license and is accompanied and directly supervised by a licensed adult hunter.

B. The minimum standards for hunter education course competency required by the department are: ~~1. Successful completion of a classroom-based hunter education course or through another format as determined by the department with a passing score of at least 80% on a closed-book written test administered closed book at the conclusion of the upon completion of an in-person classroom course by the designated course instructor or other designated course assistant as determined appropriate by the department; and 2. Successful completion of an Internet hunter education course that is approved by the department with a passing score of at least 90% on an open-book a self-administered test administered during the online in conjunction with the course material of a hunting safety education course delivered through the Internet.~~

4VAC15-275-40. Hunter education course provider requirements.

~~A. To be an approved course provider, any individual, business, or organization that instructs or provides a hunter education course shall execute and have on file a cooperative agreement with the department. It shall be the responsibility of~~

~~the state hunter education program manager or his designee to develop and execute such agreements. A list of approved course providers and hunter education courses shall be kept by the department and made available to the public. Such list does not constitute any endorsement of any course or course provider by the department or the board.~~

~~B. A.~~ As of January 1, 2016, any hunter education courses offered through the Internet and accepted by the department shall:

1. Meet the International Hunter Education Association-USA Education Standards, ~~May 2, 2014~~ December 13, 2024, set by ~~the~~ IHEA-USA for course content; and
2. Be provided only by an approved course provider that has executed a valid cooperative agreement with the department. Such agreements may be amended at any time by the department and may be canceled with 30 days notice upon failure of the course provider to comply with the terms and conditions of the agreement or its amendments.

~~C. B.~~ Any material or product to be used by an approved course provider that makes reference to the department must be approved by the department through the hunter education program manager or his the manager's designee before being published or distributed to the public.

~~D. C.~~ Any fees charged by a course provider are set by the course provider, but must be clearly communicated to the student prior to the student taking the course. ~~There will be no fees for Virginia hunter education courses provided by the department.~~

4VAC15-275-60. Hunter education course certificates, recordkeeping, and student records.

A. Upon successful completion of an online hunter education course, the approved course provider shall provide the student with a course certificate or wallet-size card. At a minimum, such certificate or card shall include the student's name and date of birth, the issuance date, the name of the course, and an indication of acceptance by the department. ~~On a schedule and in a manner mutually agreed to through a cooperative agreement, each approved online course provider shall provide to the department a copy of the record of those students issued a course certificate or wallet-size card. Upon request by the student and subject to verification of successful course completion, it shall be the responsibility of each approved online course provider to issue a duplicate certificate or card.~~

B. Upon successful completion of the Virginia hunter education classroom-based course, the department shall issue a completion certificate or card, which shall include the person's name, ~~date of birth~~, and the issuance date. Upon request by the person to whom the certificate or card was originally issued and subject to verification of successful completion, the department shall issue a duplicate certificate or card in accordance with ~~its~~ the department's policy.

C. The department shall maintain a database of all students who have successfully completed the department's classroom-based or online hunter education course. Such database shall include each student's name, address, date of birth, course or other compliance format approved by the department, and the specific name of the course.

D. Each approved course provider for hunter education courses offered over the Internet or through an electronic format shall maintain a database of all students successfully completing such course. The database shall include each student's name, address, date of birth, course completion date, and the specific name of the course.

4VAC15-275-70. Recordkeeping and student records. (Repealed.)

~~A. The department shall maintain a database of all students successfully completing the department's classroom based or online hunter education course. Such database shall include, but not be limited to, student name, address, date of birth, course or other compliance format approved by the department, and the specific name of the course.~~

~~B. Each approved course provider for hunter education courses offered over the Internet or through an electronic format shall maintain a database of all students successfully completing such course. The database shall include, but not be limited to, student name, address, date of birth, course completion date, and the specific name of the course. On a schedule and in a manner mutually agreed to through a cooperative agreement, each approved course provider shall provide to the department a copy of the record of those students who successfully complete its course. Such record shall include the database information referenced in this section. It shall be the responsibility of each approved course provider to ensure that reasonable measures, such as the Payment Card Industry (PCI) data security measures, are taken to protect any acquired student data. Further, such data shall not be sold or otherwise used in any way except for the student's own completion of a hunter education course and issuance of course completion documents.~~

4VAC15-275-80. Instructor certification.

A. The department may designate as a hunter instructor any person found by ~~it~~ the department to be competent to give instruction in the courses required.

B. Volunteer instructors are designated to work on a voluntary basis and at the pleasure of the ~~Department of Wildlife Resources~~ department.

C. To be certified as a hunter education course instructor for the department's hunter education program, a person shall (i) have successfully completed a hunter education course and (ii) be certified as an instructor by the department or by a certification program accepted by the department.

Regulations

D. Applicants for certified instructor shall submit an application to the department on a Volunteer Application form and in a manner determined by the hunter education program manager. ~~At a minimum, the application shall include:~~

- ~~1. The applicant's name;~~
- ~~2. The applicant's street address;~~
- ~~3. The applicant's telephone number;~~
- ~~4. The applicant's email address, if any;~~
- ~~5. Information describing the applicant's experience and training in hunter and hunting and proof of completion of a hunter education course that is accepted by the department; and~~
- ~~6. Any other information deemed necessary after review of the initial application.~~

E. Applicants may be required to submit written consent for a criminal history background check in a manner determined by the department ~~or an interview in a manner determined by the department and in accordance with state policy.~~

4VAC15-275-90. ~~Virginia Hunter Education Card. (Repealed.)~~

~~A. The department may issue an optional long-lasting and durable Virginia Hunter Education Card to persons who can show that they have met the minimum standard of hunter education course competency pursuant to § 29.1-300.2 of the Code of Virginia.~~

~~B. Upon receipt by the applicant, the optional Virginia Hunter Education Card will serve in lieu of any other certificates or cards that have been issued to the bearer as a result of meeting the minimum standards for hunter education course competency. As such, the Virginia Hunter Education Card will not be transferable or revocable and will have no expiration date.~~

~~C. A person may apply for a replacement Virginia Hunter Education Card. A replacement card may be issued if (i) the original card is lost, stolen, or destroyed; (ii) misinformation is printed on the card; or (iii) if the bearer has legally changed his name. Supporting documentation may be required.~~

4VAC15-275-100. Fees. (Repealed.)

~~A. Pursuant to § 29.1-300.3 of the Code of Virginia, no fee shall be charged for the instructor's service.~~

~~B. Fees charged by an approved online course provider for hunter education courses other than the department's course are set by the course provider, but must be clearly communicated to the student prior to the student taking the course.~~

~~C. The fee for issuance of an optional Virginia Hunter Education Card, which will serve in lieu of a previously obtained hunter education course certificate or card, or a replacement Virginia Hunter Education Card shall be \$10.~~

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (4VAC15-275)

~~Volunteer Application (rev. 3/2015)~~

[DWR Volunteer Application for Hunter Safety Instructor \(filed 9/2025\)](#)

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-275)

~~International Hunter Education Association-USA Education Standards, Recommendations Submitted by the Standards and Evaluation Committee, May 2, 2014, International Hunter Education Association-USA, <http://ihea-usa.org>~~

[International Hunter Education Association-USA Education Standards, Recommendations Submitted by the Standards and Evaluation Committee, December 13, 2024, International Hunter Education Association-USA, <http://ihea-usa.org>](#)

VA.R. Doc. No. R26-8437; Filed September 3, 2025, 10:14 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-290. Game: Permits (amending 4VAC15-290-80, 4VAC15-290-140).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments remove (i) certain recordkeeping requirements for holders of a permit to stuff or mount birds and animals and (ii) requirements to carry and present a Harvest Information Program (HIP) registration.

4VAC15-290-80. Stuffing or mounting birds and animals - records; inspections.

A. A holder of a permit to stuff or mount birds and animals

shall keep a complete record of all transactions. ~~Such records shall include the species to be mounted or tanned; the date of receipt; the name, address and telephone number of the person for whom the work is being performed; the name of the person who killed the specimen (if different from above); the hunting license or Virginia driving license number of such person; the county where the specimen was taken or, if taken out of state, the state in which it was taken; and the date the completed work was returned to the customer. Such records shall be retained for three years. These records, and the premises where such business is conducted, shall be open to inspection by representatives of the department during normal business hours as required by the permit.~~

B. Upon receipt of any specimen of wildlife, a A holder of a permit shall ~~immediately~~ affix to ~~such~~ each specimen a tag bearing the designation of the species, the name and address of the customer, and the date the specimen was killed. ~~Such tag shall remain affixed to the specimen, except when the specimen is actually in the process of being worked on, until it~~

~~is delivered to the customer.~~ A numbered tag, with numbers corresponding to the number of the line entry of the records required in subsection A of this section, may be used in lieu of that.

4VAC15-290-140. Possession and display of a harvest information program authorization to hunt migratory game birds.

Every person, whether licensed or exempt from being licensed, (i) must be registered with the Virginia Harvest Information Program (HIP) to hunt migratory game birds, including waterfowl, doves, woodcock, snipe, rails, gallinules, moorhens, and coots; (ii) ~~must carry the HIP authorization on his person when hunting; and (iii) shall present it immediately upon demand of any officer whose duty it is to enforce the game and inland fish laws.~~ The penalty for violation of this section is prescribed by § 29.1-505 of the Code of Virginia.

VA.R. Doc. No. R26-8438; Filed September 3, 2025, 10:14 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-25).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments remove creel limits for blue catfish on the tidal Rappahannock and York Rivers and in the portions of the James River below the freshwater-saltwater demarcation line.

4VAC15-320-25. Creel and length limits.

The creel limits, including live possession, and the length limits for the various species of fish shall be as follows, unless otherwise excepted by posted rules at department-owned or department-controlled waters (see 4VAC15-320-100 D).

Type of fish	Subtype or location	Creel and length limits	Geographic exceptions	Creel or length limits for exceptions
EDITOR'S NOTE: The table in 4VAC15-320-25 contains creel and length limit information for many types of fish in Virginia waters; only catfish creel and length limits are being amended. Since the other information available in the table is not being amended, the rows containing that information are not set out.				
catfish	channel, white, and flathead catfish	20 per day; No length limits	All rivers below the fall line	No daily limit
	blue catfish	20 per day; No statewide length limits	Lake Gaston	No daily limit, except only 1 blue catfish per day longer than 32 inches
			Kerr Reservoir, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte	20 per day, except only 1 blue catfish per day longer than 32 inches

Regulations

			County and the Dan River and its tributaries to the Banister River, Halifax County	
			James River and its tributaries below the fall line, Rappahannock River and its tributaries below the fall line, and York River and its tributaries (including the Pamunkey River and Mattaponi River) below the fall line <u>downstream to a line connecting Hog Point on Hog Island (Surry County) and the downstream point of the mouth of College Creek (James City County)</u>	No daily limit, except only 1 blue catfish per day longer than 32 inches
			All rivers below the fall line other than the James River and its tributaries, Rappahannock River and its tributaries, and the York River and its tributaries	No daily limit

VA.R. Doc. No. R26-8443; Filed September 3, 2025, 10:15 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4VAC15-330. Fish: Trout Fishing (amending 4VAC15-330-180, 4VAC15-330-190).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments remove (i) bill of sale and record retention requirements for fishing pond operators; (ii) certain record retention requirements for persons raising brook, brown, or rainbow trout; and (iii) certain inspection requirements for trout aquaculture establishments.

4VAC15-330-180. Bills of sale for trout creelcd in commercially operated fishing ponds.

The operator of a commercially operated fishing pond shall

be required to furnish a receipt to each fisherman taking trout therein ~~a bill of sale, which shall include the name of the fisherman, date, species and number of trout creelcd from the pond.~~ The fisherman shall retain this bill of sale receipt as long as the fish are in his possession ~~and a duplicate of that shall remain with the operator of the commercially operated fishing pond and be made available for inspection by all authorized department personnel.~~

4VAC15-330-190. Trout artificially raised for sale.

A. Permit required. It shall be lawful to sell artificially raised brown trout, brook trout, or rainbow trout. Commercial aquaculture operations in Virginia that artificially raise and sell brown, brook, and rainbow trout must obtain a permit from the department.

~~B. Records. Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale shall keep a record of the number and species, the number raised or, if imported, from whom purchased.~~

~~C. Inspection of premises or establishments. Any establishment raising trout or ordering, importing or possessing trout, as provided for in subsection A of this section, shall be open to inspection at all reasonable hours to any representative of the department.~~

~~D. B.~~ Trout as bait. Artificially raised rainbow trout may be sold as bait for use in the James River and the New River, and

in impoundments (ponds, lakes, and reservoirs), except impoundments listed as designated stocked trout waters, Lake Moomaw, and Philpott Reservoir. Persons possessing purchased rainbow trout for bait must have a valid invoice or bill of sale, specifying date of purchase, the number of trout purchased, and the name of an individual or business permitted to sell trout.

VA.R. Doc. No. R26-8439; Filed September 3, 2025, 10:15 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-340. Fish: Seines and Nets (amending 4VAC15-340-20, 4VAC15-340-40).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments remove (i) the requirement that persons permitted to use a haul seine for personal use notify the regional law-enforcement office 48 hours prior to use and (ii) a provision regarding the inspection of dip nets by conservation police officers.

4VAC15-340-20. Haul seines to take fish for personal use.

A. Authorization to take fish for personal use. Pursuant to §§ 29.1-412 and 29.1-416 of the Code of Virginia, a permit to use a haul seine to take fish for personal use authorizes the holder of such permit to take nongame fish (except for those species listed in 4VAC15-20-130) with a haul seine for private table use, but not for sale in the counties of Franklin, Henry, and Patrick, and in those waters as specified in § 29.1-531 of the Code of Virginia in the county for which such permit is issued, except as otherwise prohibited in 4VAC15-320-100, 4VAC15-330-60, ~~4VAC15-330-20 (Repealed)~~, and in waters listed in subsection ~~F~~ E of this ~~chapter~~ section.

B. Holder to be present when seine operated. The holder of a permit to take fish with a haul seine for personal use must be present when the seine is being operated but may have other persons to assist him who are not required to have a permit. However, those assisting the permittee or handling live fish or both must meet the fishing license requirements of the Commonwealth.

C. Length and size of haul seines. The length of a haul seine to take fish for personal use shall not be more than 60 feet in

length. The minimum size of mesh shall be 1-½-inch bar mesh (3-inch stretch mesh).

D. Season to take fish with a haul seine. The season to take fish with a haul seine for personal use shall be from July 1 through September 30, both dates inclusive.

~~E. Department notification required to use a haul seine. Persons permitted to use a haul seine for personal use must notify the regional law-enforcement office a minimum of 48 hours prior to use.~~

~~F. E.~~ Haul seine use restricted in certain areas. The use of haul seines for personal use is prohibited in the following stream sections of Franklin and Patrick counties:

FRANKLIN COUNTY

Roanoke River from County Route 634 crossing upstream to the Roanoke/Franklin County line.

PATRICK COUNTY

Smith River from Philpott Lake upstream including headwaters.

Rock Castle Creek from its confluence with Smith River upstream, including headwaters.

Dan River from VA/NC state line upstream to County Route 631 crossing.

Poorhouse Creek from its confluence with North Fork Mayo River upstream, including headwaters.

North Fork Mayo River from its confluence with Poorhouse Creek upstream.

4VAC15-340-40. Dip nets; generally.

A. Authorization to take fish with dip nets. A county dip net permit shall authorize the holder to take shad, herring, mullet, and suckers (daily creel (possession) limits for shad and herring are found in 4VAC15-320-25, there is no limit for mullet, and subsection D of this section provides limits for suckers), in the county named on the face of the permit with a dip net in inland waters, except where otherwise prohibited by local legislation or by ~~the sections appearing in~~ this chapter.

B. Persons required to have permit; ~~inspection by conservation police officers~~. A dip net permit; or valid fishing license; shall be required for all persons using or assisting in the use of a dip net and permits; or licenses; shall be carried at all times while using such nets ~~and shall be subject to inspection by conservation police officers.~~

C. Release of certain fish netted. All fish, except shad, herring, mullet, suckers, and carp, when taken with a dip net, shall be returned to the water alive with as little injury as possible.

D. Special provisions applicable only to suckers. The following special provisions shall apply only to the taking of suckers; with a dip net:

Regulations

1. Not more than 20 may be taken by any person in one day;
2. The open season for taking ~~same~~ suckers with a dip net shall be from February 15 through May 15, both dates inclusive; and
3. Dip nets for taking ~~such fish~~ suckers shall not be more than six feet square.

VA.R. Doc. No. R26-8440; Filed September 3, 2025, 10:16 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-360. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (amending 4VAC15-360-20).**

Statutory Authority: §§ 29.2-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Comment Deadline: October 21, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The proposed amendments remove an unnecessary definition of haul seine.

4VAC15-360-20. Taking minnows and chubs for sale.

~~A. "Haul seine," as used in this section, when used in the inland waters of the Commonwealth above where the tide ebbs and flows shall mean a haul seine not exceeding four feet in depth by 15 feet in length and when used in the public inland waters below where the tide ebbs and flows shall mean a haul seine not exceeding four feet in depth by 100 feet in length. Such a term shall be construed also to include umbrella type nets without limit as to size and also small minnow traps with throat openings no larger than one inch in diameter.~~

~~B. A. It shall be unlawful to take minnows and chubs (Cyprinidae) for sale from the inland waters of the Commonwealth.~~

~~C. B. Commercial bait operations must have a Permit to Hold or Sell Certain Wildlife or a Permit to Propagate and Sell Certain Wildlife. With the exception of those species listed in 4VAC15-20-130, these operations may possess and sell unlimited quantities of minnows and chubs (Cyprinidae), when possession is accompanied by a valid invoice or bill of sale from an individual permitted under subsection B of this section or from a properly permitted aquaculture facility in Virginia or out-of-state.~~

VA.R. Doc. No. R26-8441; Filed September 3, 2025, 10:16 a.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Proposed Regulation

Title of Regulation: **6VAC20-50. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers (amending 6VAC20-50-20, 6VAC20-50-40).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: December 5, 2025.

Agency Contact: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, fax (804) 786-0410, or email kristi.shalton@dcjs.virginia.gov.

Basis: Pursuant to § 9.1-102 of the Code of Virginia, the Department of Criminal Justice Services (DCJS), under the direction of the Criminal Justice Services Board, has the power and duty to adopt regulations and establish compulsory minimum training standards subsequent to employment as a law-enforcement officer, courthouse and courtroom security, or deputy sheriff and jail officer in permanent positions and in temporary or probationary status and establish the time required for completion of such training.

Purpose: In order to have cohesiveness between the compulsory minimum training standards and requirements for new law-enforcement recruits at the academy level and individuals entering a career as a jailor, court security, or civil process service officer, DCJS has determined that the compulsory minimum training standards need amendment. The proposed amendments ensure that language is statutorily correct and encompass a complete review of the regulation, so DCJS has determined that the update of the regulation is essential to protect the safety and welfare of citizens in Virginia.

Substance: Proposed amendments (i) incorporate three DCJS documents as enforceable text into the regulation; (ii) remove existing categories of training from regulatory text and replace that text with a statement that all civil process and courtroom security officers must attend and successfully complete basic training curriculum for law enforcement or jail officers, where those categories of training will be taught and tested; (iii) add a category of officer wellness to the training for jail officers; and (iv) extend to 18 months the timeframe in which to complete training to coincide with the newly-revised standards.

Substantive changes in the regulation are found in the incorporated documents, including (i) updates to the compulsory minimum training standards for jailors, civil

process officers, and courtroom or courthouse security officers and to the respective field training for each of those job descriptions; (ii) changes to ensure greater measurability to existing performance outcomes and training objectives; (iii) reduction to one category of training for civil process and courtroom security officers in operations; and (iv) revision of field training for all three types of employment.

Issues: The advantages of this action include improved, more efficient training for new jail officers and standardized training regulations for individuals hired for civil process and courtroom or courthouse security officer functions, regardless of what agency has hired the individuals or to which criminal justice training academy the individuals report or are assigned. There are no disadvantages associated with the regulatory changes that effect individual private citizens, businesses, other agencies within the Commonwealth, or government officials.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Criminal Justice Services Board (board) proposes to (i) add wellness to the required categories of training to be completed by jail officers; (ii) replace the requirement to complete courthouse and courtroom security officers training and instead require that courthouse and courtroom security officers successfully complete either law enforcement or jail officer basic training, plus the Courtroom Security Operations category of training; (iii) replace the requirement to complete process service officer training and instead require that civil process officers successfully complete either law enforcement or jail officer training, plus the Civil Process Operations category of training; (iv) increase the maximum amount of time within which training must be completed from 12 months to 18 months; and (v) establish a 120 minimum number of hours for jail officer field training.

Background. Deputy sheriffs, jail officers, courthouse or courtroom security officers, and civil process officers (deputy sheriffs designated to serve process) all must complete both basic training and field training for certification. The following subsections describe the current basic training requirements and the proposed changes to those requirements. Basic training is conducted at certified criminal justice training academies. Field training requirements are in documents incorporated by reference (DIBRs). The proposed regulation includes links to new DIBRs. Field training is typically conducted by the hiring agency.

Deputy Sheriffs and Jail Officers: The current regulation states that individuals hired as deputy sheriffs or jail officers as defined in § 53.1-1 of the Code of Virginia shall meet or exceed compulsory minimum training standards at a certified criminal justice training academy and complete field training requirements. Certification requires deputy sheriffs and jail officers successfully complete jail officer department approved training at a certified criminal justice training academy in the following categories: a.

Professionalism; b. Legal; c. Communication; d. Jail Operations; e. Investigations; f. Defensive Tactics and Use of Force; g. Weapons; and h. Driver Training and Transportation. The board proposes to add wellness to the category list.

As defined in § 53.1-1 of the Code of Virginia² deputy sheriffs and jail officers are distinct, but their training requirements are identical. In this document when jail officers are mentioned it can be inferred that deputy sheriffs are also included.

Courthouse or Courtroom Security Officers: The current regulation states that individuals hired as courthouse or courtroom security officers shall meet or exceed compulsory minimum training standards at a certified criminal justice training academy and complete field training requirements. Certification requires courthouse and courtroom security officers successfully complete courthouse and courtroom security officers department approved training at a certified criminal justice training academy in the following categories: a. Professionalism; b. Legal; c. Communication; d. Court Security Operations; e. Investigations; f. Defensive Tactics and Use of Force; g. Weapons; and h. Driver Training and Transportation. The board proposes to remove the listed courthouse or courtroom security officers department approved training and instead require that courthouse and courtroom security officers successfully complete either approved law enforcement or jail officer training, and the Courtroom Security Operations category of training.

Civil Process Officers: The current regulation states that individuals hired as deputy sheriffs and designated to serve process shall meet or exceed compulsory minimum training standards at a certified criminal justice training academy and complete field training requirements. Certification requires deputy sheriffs designated to serve process³ successfully complete process service officer department approved training at a certified criminal justice training academy in the following categories: a. Professionalism; b. Legal; c. Communication; d. Civil Process Operations; e. Defensive Tactics and Use of Force; f. Weapons; and g. Driver Training. The board proposes to remove the listed civil process officer department approved training and instead require that civil process officers successfully complete either approved law enforcement or jail officer training, and the Civil Process Operations category of training.

Training Deadline: Under the current regulation, deputy sheriffs, jail officers, courthouse and courtroom security officers, and civil process officers must satisfactorily complete basic training and field training within 12 months of the date of appointment or hire, unless the Department of Criminal Justice Services (DCJS) director or the director's designee grants an extension of the time limit for completion of the compulsory minimum training standards and requirements. An extension can be granted for the following reasons: (i) medical condition, (ii) injury, (iii) military service, or (iv) administrative leave involving the determination of worker's compensation or disability retirement issues or suspension pending investigation or adjudication of a crime. The director or director's designee may review and consider other reasons (e.g., natural disaster, family medical leave, etc.) for granting an extension. If approval is granted, the extension shall not exceed 90 days. The director shall not grant an extension for failing to pass compulsory minimum training standards within the

Regulations

specified time limits. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and civil process officers who do not satisfactorily complete the requirements (i.e., compulsory minimum training standards, field training, and other requirements) within 12 months of hire or appointment, or who do not receive an extension of the time limit for completion of the requirements, forfeit their office. Such forfeiture creates a vacancy in the office, and all pay and allowances to that individual shall cease.⁴ The board proposes to extend the deadline to 18 months.

Estimated Benefits and Costs. Addition of Wellness Training: The proposed new jail officer training category of wellness includes (i) physical fitness standards, (ii) identifying the causes of stress, its impacts, as well as reduction strategies, and (iii) identifying signs related to suicidal ideation (of inmates as well as fellow officers). According to DCJS, some academies have already incorporated wellness into their curriculums. To the extent that some have not, adding instruction on physical fitness, stress reduction strategies, and identifying signs related to suicidal ideation would likely be beneficial for jail officers, particularly since it is a high-stress occupation. DCJS does not believe that any of the academies would need to hire additional or different staff to teach the components of wellness. Those academies that are not already teaching wellness would still require additional staff time if they do not reduce time spent on other subjects.

Training for Courthouse or Courtroom Security Officers and Civil Process Officers: With one exception, in the current regulation jail officer training, courthouse or courtroom security officer training, and civil process officer training have the same required categories. The exception is that jail officer training includes Jail Operations, while courthouse or courtroom security officers training includes Courtroom Security Operations, and civil process officer training includes Civil Process Operations. The training requirements for law-enforcement officers are in a different regulation, Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers (6VAC20-20). Similarly, with one exception, the current required categories of training for law-enforcement officers, jail officers, courthouse or courtroom security officers, and civil process officers are the same. The exception is that law-enforcement officer training includes Patrol, versus jail officer training Jail Operations, courthouse or courtroom security officer training Courtroom Security Operations, and civil process officer training Civil Process Operations. Thus, by requiring that courthouse or courtroom security officers complete law enforcement or jail officer basic training plus Courtroom Security Operations, rather than the existing required courtroom security officers training, courthouse or courtroom security officers would be required to complete one additional category (either Patrol or Jail Operations). Analogously, by requiring that civil process security officers complete law enforcement or jail officer basic training plus Civil Process Operations, rather than the existing required civil process officer training, civil process officers would be required to complete one additional category (either Patrol or Jail Operations). According to DCJS, this is what already occurs at the training academies, and would therefore have no impact. There is a concurrent regulatory action to amend Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers (6VAC20-20) that would, along with other amendments,

add wellness to the law-enforcement officer training categories.⁵ Thus, if approved, both the jail officer training and the law-enforcement officer training would include wellness. Consequently, courthouse or courtroom security officers and civil process officers would also be required to have training on Wellness. All of the implications of the required wellness training described would apply to courthouse or courtroom security officers and civil process officers, as well as jail officers.

Extension of Training Deadline: According to DCJS, the department currently receives many requests for extensions of the training deadline. Consequently, in addition to giving greater flexibility to employing agencies and their newly hired officers, the proposal to extend the timeframe within which newly hired officers must complete all certification requirements from 12 months to 18 months would also likely reduce the workload of DJCS field representatives who review such submissions. On the other hand, this proposal would allow individuals who are incapable of demonstrating the knowledge and skills that are presumably considered necessary for competent practice to remain employed as a deputy sheriff, jail officer, courthouse and courtroom security officer, or civil process officer for six additional months.

Field Training: DCJS has indicated that field training has been revised and improved for all three functions, but a comparison of existing and proposed requirements was not available. The agency did state that it believes that the proposed changes would not increase the amount of time needed for training. In the current regulation and DIBR there are no minimum number of hours of to be spent on field training. The proposed DIBR for jail officers establishes a 120-hour minimum for field training. As there is no current minimum, DCJS is not aware whether any employing agencies currently provide fewer than 120 hours of jail officer field training. If there any such employers, they would have to increase their training hours under the proposed regulation.

Businesses and Other Entities Affected. The proposed amendments affect the 39 certified criminal justice training academies, their staff, newly hired deputy sheriffs, jail officers, courthouse and courtroom security officers, and civil process officers, and their employing agencies. According to DCJS, basic training was successfully completed at the training academies by 784 jail officers and deputy sheriffs, and by 420 courthouse or courtroom security officers and civil process officers in 2022. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. Though there appear to be substantial benefits introduced in the proposed regulation, there also appear to be some costs. Employers of jail officers who are currently providing fewer than 120 hours of field training would need to expend additional staff time to provide that amount of training. Also, allowing individuals who are incapable of demonstrating the knowledge and skills that are considered necessary for competent practice to remain employed as a deputy sheriff, jail officer, courthouse and courtroom security officer, or civil process officer for six additional months could be problematic and costly. Thus, an adverse impact is indicated for employers of jail officers who are currently providing fewer than 120 hours of field training and

for anyone negatively impacted by having some less than fully competent officers working an additional six months.

Small Businesses⁷ Affected.⁸ The proposed amendments do not appear to adversely affect small businesses.

Localities⁹ Affected.¹⁰ Localities that have jails that currently provide fewer than 120 hours of field training would be particularly affected.

Projected Impact on Employment. The proposed amendments do not appear to substantively affect total employment.

Effects on the Use and Value of Private Property. The proposed amendments are unlikely to substantively affect the use and value of private property. The proposed amendments do not affect real estate development costs.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://law.lis.virginia.gov/vacode/title53.1/chapter1/section53.1-1/>.

³ The actual text has "courthouse and courtroom security officers" here. DCJS acknowledged that was in error and the regulation has been applied as if the text had "deputy sheriffs designated to serve process".

⁴ See § 9.1-115 of the Code of Virginia.

⁵ See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5665>.

⁶ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁷ Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁸ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁹ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Virginia Department of Criminal Justice Services (DCJS) agrees with the economic impact analysis

(EIA) prepared by the Department of Planning and Budget (DPB). The proposed amendments affect the 39 certified criminal justice training academies, their staff, newly hired deputy sheriffs, jail officers, courthouse and courtroom security officers, and civil process officers, and their employing agencies. DCJS agrees that basic training was successfully completed at the training academies by 784 jail officers and deputy sheriffs, and by 420 courthouse or courtroom security officers and civil process officers in 2022, at the time this information was requested by DPB. This action was first submitted to DPB as a NOIRA in May 2021, and since approved by the Committee on Training and the Criminal Justice Services Board, no additional changes have been made to the training standards or the regulatory text.

DPB's assessment that the proposed amendments neither adversely affect small businesses nor real estate development costs is accurate and DCJS agrees that the only localities affected are those that have jails that currently provide fewer than 120 hours of field training for their new officers. DCJS supports DPB's assessment and is in agreement with the published EIA.

Summary:

The proposed amendments (i) add wellness to the required categories of training to be completed by jail officers; (ii) replace the requirement to complete courthouse and courtroom security officers training and instead require that courthouse and courtroom security officers successfully complete basic training for either law enforcement or jail officers and the Courtroom Security Operations category of training; (iii) replace the requirement to complete process service officer training with a requirement that civil process officers successfully complete training for either law enforcement or jail officers and the Civil Process Operations category of training; (iv) increase the maximum amount of time within which training must be completed to 18 months; and (v) establish 120 minimum number of hours for jail officer field training.

The revisions to the standards being incorporated into the regulation to be enforced by the department include (i) new performance outcomes for both civil process and courtroom or courthouse security officers addressing the recording and reporting of injuries; (ii) more sheriff deputy safety procedures; (iii) the new category of Officer Wellness for jail officers; and (iv) incorporation of additional performance-based tasks into the Field Training categories of training for jailor, civil process, and courtroom or courthouse security officers.

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

A. Pursuant to the provisions of subdivisions 7, 8, and 9 of § 9.1-102 of the Code of Virginia, the department, under the direction of the board, establishes the compulsory minimum training standards for full-time and part-time deputy sheriffs and jail officers as defined in § 53.1-1 of the Code of Virginia; persons designated to provide courthouse and courtroom security pursuant to § 53.1-120 of the Code of Virginia; and persons designated to serve process pursuant to § 8.01-293 of the Code of Virginia.

B. Individuals hired as deputy sheriffs or jail officers as defined in § 53.1-1 of the Code of Virginia shall meet or exceed compulsory minimum training standards at a certified criminal

Regulations

justice training academy and complete field training requirements. Certification requires deputy sheriffs and jail officers to comply with the following:

1. Successfully complete a jail officer ~~department-approved~~ department-approved training curriculum at a certified criminal justice training academy, as identified in the Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Field Training Performance Outcomes for Jail Officers, dated August 2025, hereby incorporated by reference, in the following categories:

- a. Professionalism;
- b. Legal;
- c. Communication;
- d. Jail operations;
- e. Investigations;
- f. Defensive tactics and use of force;
- g. Weapons; ~~and~~
- h. Driver training and transportation; and
- i. Wellness.

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

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

1. Successfully complete ~~courthouse and courtroom security officers department-approved~~ a department-approved law enforcement or jail officer basic training curriculum at a certified criminal justice training academy ~~in the following categories: a. Professionalism; b. Legal; c. Communication; d. Court security operations; e. Investigations; f. Defensive tactics and use of force; g. Weapons; and h. Driver training and transportation~~ and complete the Courtroom Security Operations category of training, as identified in the Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Field Training Performance Outcomes for Courtroom Security Officers, dated August 2025, hereby incorporated by reference.

2. Meet or exceed the performance outcomes detailed in the category of field training ~~identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes~~ for courtroom and courthouse security officers.

D. Individuals hired as deputy sheriffs and designated to serve process shall meet or exceed compulsory minimum training

standards at a certified criminal justice training academy and complete field training requirements. Certification requires ~~courthouse and courtroom security~~ civil process officers to comply with the following:

1. Successfully complete ~~process service officer department-approved~~ a department-approved law enforcement or jail officer basic training curriculum at a certified criminal justice training academy ~~in the following categories: a. Professionalism; b. Legal; c. Communication; d. Civil process operations; e. Defensive tactics and use of force; f. Weapons; and g. Driver training~~ and complete the Civil Process Operations category of training, as identified in the Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Field Training Performance Outcomes for Civil Process Officers, dated August 2025, hereby incorporated by reference.

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

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

A. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process who are required to comply with the compulsory minimum training standards, field training, and other requirements shall satisfactorily complete such training within ~~12~~ 18 months of the date of appointment or hire as deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process unless provided otherwise in accordance with subsection B of this section.

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

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

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

D. The director or the director's designee may review and consider requests to renew training extensions if the reason for the original training extension continues and the request occurs before the expiration of the original extension.

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

F. Deputy sheriffs, jail officers, courthouse and courtroom security officers, and deputy sheriffs designated to serve process who do not satisfactorily complete the compulsory minimum training standards, field training, and other requirements within ~~12~~ 18 months of hire or appointment as a deputy sheriff, jail officer, courthouse and courtroom security officer, or deputy sheriff designated to serve process, or who do not receive an extension of the time limit for completion of the requirements, shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

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

DOCUMENTS INCORPORATED BY REFERENCE (6VAC20-50)

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

[Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Field Training Performance Outcomes for Jail Officers, Virginia Department of Criminal Justice Services \(rev. 8/2025\)](#)

[Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Field Training Performance Outcomes for Civil Process Officers, Virginia Department of Criminal Justice Services \(rev. 8/2025\)](#)

[Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Field Training Performance Outcomes for Courtroom Security Officers, Virginia Department of Criminal Justice Services \(rev. 8/2025\)](#)

VA.R. Doc. No. R22-6819; Filed August 26, 2025, 7:45 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT 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, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Title of Regulation: 9VAC20-130. Solid Waste Planning and Recycling Regulations.

Agency Contact: Rebecca Rathe, Regulatory Analyst, Department of Environmental Quality, 4411 Early Road, Harrisonburg, VA 22801, telephone (540) 830-7241, or email rebecca.rathe@deq.virginia.gov.

FORMS (9VAC20-130)

~~Locality Recycling Rate Report, DEQ Form 50-30 (rev. 12/2018)~~

[Locality Recycling Rate Report, DEQ Form 50-30 \(rev. 6/2025\)](#)

VA.R. Doc. No. R26-8451; Filed September 8, 2025, 9:08 a.m.

STATE WATER CONTROL BOARD

Proposed Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.) and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01 of the Code of Virginia; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9VAC25-820. General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (amending 9VAC25-820-10, 9VAC25-820-15, 9VAC25-820-20, 9VAC25-820-40, 9VAC25-820-70, 9VAC25-820-80).

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

Public Hearing Information:

November 10, 2025 - 10:30 a.m. - Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Glen Allen, VA 23060.

Public Comment Deadline: December 5, 2025.

Regulations

Agency Contact: Morgan Emanuel, Regulatory and Guidance Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 494-9635, or email morgan.emanuel@deq.virginia.gov.

Background: This general permit regulation governs facilities holding a Virginia Pollutant Discharge Elimination System (VPDES) individual permit or owners of facilities that otherwise meet the definition of an existing facility that discharge or propose to discharge total nitrogen or total phosphorus or both to the Chesapeake Bay or tributaries to the Chesapeake Bay. Facilities covered by the general permit regulation are authorized to discharge to surface waters and trade credits for total nitrogen and total phosphorus to offset discharges that exceed facility wasteload allocations. Nitrogen and phosphorus are both nutrients that contribute to pollution in the Chesapeake Bay. The primary issue that needs to be addressed in this action is that the existing general permit expires on December 31, 2026, and must be reissued to continue making it available after that date; the proposed amendments extend the permit to December 31, 2031.

Summary:

Proposed amendments include (i) updating the effective date of the Code of Federal Regulation reference to U.S. Environmental Protection Agency regulations referenced or adopted in the regulation; (ii) updating compliance and deadline dates throughout the regulation to accommodate the extension of the permit effective dates; (iii) clarifying consolidation versus aggregation of facilities and when and how wasteload allocations are terminated without transfer; (iv) removing language for completed compliance schedules; (v) adjusting monitoring requirements; (vi) clarifying monthly average reporting procedures and adding language regarding a new option to obtain point source credits through the Virginia Nutrient Credit Exchange Association; and (vii) updating the cost of credits per pound of nitrogen to \$9.23 and per pound of phosphorus to \$20.26 based on the 2022 Pay-For-Outcomes Nonpoint Source Pollution Reduction Grant Program, which was adjusted for inflation using the Consumer Price Index (CPI) July 2022 - July 2025 CPI-U Washington-Arlington-Alexandria, DC-VA-MD-WV.

Chapter 820

~~General Virginia Pollutant Discharge Elimination System (VPDES) Watershed General Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Discharges and Trading in the Chesapeake Bay Watershed in Virginia~~

9VAC25-820-10. Definitions.

Except as defined ~~below in this section~~, the words and terms used in this chapter shall have the meanings defined in the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31).

"Annual mass load of total nitrogen" (expressed in pounds per year) means the sum of the total monthly loads for all of the months in one calendar year. See Part I E 4 of the general permit in 9VAC25-820-70 for calculating total monthly load.

"Annual mass load of total phosphorus" (expressed in pounds per year) means the sum of the total monthly loads for all of the months in one calendar year. See Part I E 4 of the general permit in 9VAC25-820-70 for calculating total monthly load.

"Association" means the Virginia Nutrient Credit Exchange Association authorized by § 62.1-44.19:17 of the Code of Virginia.

"Attenuation" means the rate at which nutrients are reduced through natural processes during transport in water.

~~"Board" means the Virginia State Water Control Board or State Water Control Board. When used outside the context of the promulgation of regulations, including regulations to establish general permits, "board" means the Department of Environmental Quality.~~

"Delivered total nitrogen load" means the discharged mass load of total nitrogen from a point source that is adjusted by the delivery factor for that point source.

"Delivered total phosphorus load" means the discharged mass load of total phosphorus from a point source that is adjusted by the delivery factor for that point source.

"Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for every pound discharged from a facility, as determined by the specific geographic location of the facility, to account for attenuation that occurs during riverine transport between the facility and tidal waters. Delivery factors shall be calculated using the Chesapeake Bay Program watershed model. For the purpose of this regulation, delivery factors with a value greater than 1.00 in the Chesapeake Bay Program watershed model shall be considered to be equal to 1.00.

"Department" or "DEQ" means the Department of Environmental Quality.

"Director" means the director of the Department of Environmental Quality.

"Eastern Shore trading ratio" means the ratio of pounds of point source credits from another tributary that can be acquired and applied by the owner of a facility in the Eastern Shore Basin for every pound of point source total nitrogen or total phosphorus discharged from the Eastern Shore Basin facility. Trading ratios are expressed in the form "credits supplied: credits received."

"Equivalent load" means:

2,300 pounds per year of total nitrogen or 300 pounds per year of total phosphorus discharged by an industrial facility are considered equivalent to the load discharged from

sewage treatment works with a design capacity of 0.04 million gallons per day,

5,700 pounds per year of total nitrogen or 760 pounds per year of total phosphorus discharged by an industrial facility are considered equivalent to the load discharged from sewage treatment works with a design capacity of 0.1 million gallons per day, and

28,500 pounds per year of total nitrogen or 3,800 pounds per year of total phosphorus discharged by an industrial facility are considered equivalent to the load discharged from sewage treatment works with a design capacity of 0.5 million gallons per day.

"Existing facility" means a facility (i) subject to a current individual VPDES permit from which a discharge has commenced or for which its owner has received a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) for the treatment works used to derive its wasteload allocation on or before July 1, 2005, or (ii) for which the owner has a wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation. Existing facility shall also mean and include any facility, not subject to an individual VPDES permit, for which its owner holds a separate wasteload allocation in 9VAC25-720-120 C of the Water Quality Management Planning Regulation.

"Expansion" or "expands" means (i) initiating construction at an existing treatment works after July 1, 2005, to increase design flow capacity, except that the term does not apply in those cases where a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) was issued on or before July 1, 2005, or (ii) industrial production process changes or the use of new treatment products at industrial facilities that increase the annual mass load of total nitrogen or total phosphorus above the wasteload allocation.

"Facility" means a point source from which a discharge or proposed discharge of total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries exists. This term does not include confined animal feeding operations, discharges of storm water, return flows from irrigated agriculture, or vessels.

"General permit" means this general permit authorized by § 62.1-44.19:14 of the Code of Virginia.

"Industrial facility" means any facility (as defined above) other than sewage treatment works.

"Local water quality-based limitations" means limitations intended to protect local water quality including applicable total maximum daily load (TMDL) allocations, applicable Virginia Pollution Discharge Elimination System (VPDES) permit limits, applicable limitations set forth in water quality standards established under § 62.1-44.15 (3a) of the Code of

Virginia, or other limitations as established by the State Water Control Board.

"New discharge" means any discharge from a facility that did not commence prior to July 1, 2005, except that the term does not apply in those cases where a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) was issued to the facility on or before July 1, 2005.

"Nonsignificant discharger" means (i) a sewage treatment works discharging to the Chesapeake Bay watershed downstream of the fall line with a design capacity of less than 0.1 million gallons per day, or less than an equivalent load discharged from industrial facilities, or (ii) a sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line with a design capacity of less than 0.5 million gallons per day, or less than an equivalent load discharged from industrial facilities.

"Nutrient Offset Fund" means a special nonreverting fund as established under § 10.1-2128.2 of the Code of Virginia.

"Offset" means to acquire an annual wasteload allocation of total nitrogen or total phosphorus for a new or expanding facility to ensure that there is no net increase of nutrients into the affected tributary of the Chesapeake Bay.

"Permitted design capacity" or "permitted capacity" means the allowable load (pounds per year) assigned to an existing facility that is a nonsignificant discharger and that does not have a wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation. The permitted design capacity is calculated based on the design flow and installed nutrient removal technology (for sewage treatment works, or equivalent discharge from industrial facilities) at a facility that has either commenced discharge, or for which an owner has received a Certificate to Construct (for sewage treatment works, or equivalent DEQ approval for discharges from industrial facilities) prior to July 1, 2005. This mass load is used for (i) determining whether the owner of the expanding facility must offset additional mass loading of nitrogen and phosphorus and (ii) determining whether the owner of the facility must acquire credits at the end of a calendar year. For the purpose of this chapter, owners of facilities that have installed secondary wastewater treatment (intended to achieve BOD and TSS monthly average concentrations equal to or less than 30 milligrams per liter) are assumed to achieve an annual average total nitrogen effluent concentration of 18.7 milligrams per liter and an annual average total phosphorus effluent concentration of 2.5 milligrams per liter. Permitted design capacities for facilities that, before July 1, 2005, were required to comply with more stringent nutrient limits shall be calculated using the more stringent values.

Regulations

"Permitted facility" means a facility whose owner is authorized by this general permit to discharge total nitrogen or total phosphorus. For the sole purpose of generating point source nitrogen credits or point source phosphorus credits, "permitted facility" shall also mean the Blue Plains wastewater treatment facility operated by the District of Columbia Water and Sewer Authority.

"Permittee" means a person authorized by this general permit to discharge total nitrogen or total phosphorus.

"Point source nitrogen credit" means the difference between (i) the wasteload allocation for a permitted facility specified as an annual mass load of total nitrogen and (ii) the monitored annual mass load of total nitrogen discharged from that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total nitrogen load.

"Point source phosphorus credit" means the difference between (i) the wasteload allocation for a permitted facility specified as an annual mass load of total phosphorus and (ii) the monitored annual mass load of total phosphorus discharged from that facility, where clause (ii) is less than clause (i), and where the difference is adjusted by the applicable delivery factor and expressed as pounds per year of delivered total phosphorus load.

"Quantification level" or "QL" means the minimum levels, concentrations, or quantities of a target variable (e.g., target analyte) that can be reported with a specified degree of confidence in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

"Registration list" means a list maintained by the department indicating all facilities that are registered for coverage under this general permit, by tributary, including their wasteload allocations, permitted design capacities, and delivery factors as appropriate.

"Significant discharger" means the owner of (i) a sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line with a design capacity of 0.5 million gallons per day or greater, or an equivalent load discharged from industrial facilities; (ii) a sewage treatment works discharging to the Chesapeake Bay watershed downstream of the fall line with a design capacity of 0.1 million gallons per day or greater, or an equivalent load discharged from industrial facilities; (iii) a planned or newly expanding sewage treatment works discharging to the Chesapeake Bay watershed upstream of the fall line that was expected to be in operation by December 31, 2010, with a permitted design of 0.5 million gallons per day or greater, or an equivalent load to be discharged from industrial facilities; or (iv) a planned or newly expanding sewage treatment works discharging to the Chesapeake Bay watershed downstream of the fall line that was expected to be in operation by December 31, 2010, with a

design capacity of 0.1 million gallons per day or greater, or an equivalent load to be discharged from industrial facilities.

"State-of-the-art nutrient removal technology" means (i) technology that will achieve an annual average total nitrogen effluent concentration of three milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter or (ii) equivalent load reductions in total nitrogen and total phosphorus through recycle or reuse of wastewater as determined by the department.

"Tributaries" means those river basins listed in the Chesapeake Bay TMDL and includes the Potomac, Rappahannock, York, and James River Basins and the Eastern Shore Basin, which encompasses the creeks and rivers of the Eastern Shore of Virginia that are west of Route 13 and drain into the Chesapeake Bay.

"VPDES" means Virginia Pollutant Discharge Elimination System.

"Wasteload allocation" means the most limiting of (i) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus allocated to individual facilities pursuant to 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation or its successor, or permitted capacity in the case of nonsignificant dischargers; (ii) the water quality-based annual mass load of total nitrogen or annual mass load of total phosphorus acquired pursuant to § 62.1-44.19:15 of the Code of Virginia for new or expanded facilities; or (iii) applicable total nitrogen or total phosphorus wasteload allocations under the Chesapeake Bay total maximum daily loads (TMDLs) to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

9VAC25-820-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, 2014; however, references to 40 CFR Part 136 are incorporated as published in the July 1, 2024, update 2025.

9VAC25-820-20. Purpose, applicability.

A. This regulation fulfills the statutory requirement for the ~~General VPDES Watershed General Permit for Total Nitrogen and Total Phosphorus discharges and nutrient trading~~ Nutrient Discharges and Trading in the Chesapeake Bay watershed ~~Watershed~~ issued by the ~~board~~ State Water Control Board pursuant to the Clean Water Act (33 USC § 1251 et seq.) and § 62.1-44.19:14 of the Code of Virginia.

B. This general permit regulation governs owners of facilities holding individual VPDES permits or otherwise meeting the

definition of "existing facility" that discharge or propose to discharge total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries.

9VAC25-820-40. Compliance plans.

~~A. By February 1, 2023, every owner of a facility subject to reduced individual total nitrogen or total phosphorous wasteload allocations as identified in 9VAC25-820-80 shall either individually or through the Virginia Nutrient Credit Exchange Association submit compliance plans to the department for approval.~~

~~1. For facilities listed in 9VAC25-820-80 A, compliance with reduced wasteload allocations established by the Enhanced Nutrient Removal Certainty Program shall be on the effective date of the reduced allocations as established in 9VAC25-720-60 and 9VAC25-720-120. For facilities listed in 9VAC25-820-80 B, compliance with chlorophyll a-based total phosphorus wasteload allocations shall be achieved as soon as possible, but no later than January 1, 2026. The compliance plans shall contain any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined wasteload allocations of all the permittees in the tributary. Permittees submitting individual plans are not required to account for other facilities' activities.~~

~~2. As part of the compliance plan development for facilities listed in 9VAC25-820-80 B, permittees shall either:~~

- ~~a. Demonstrate that the additional capital projects anticipated by subdivision 1 of this subsection are necessary to ensure continued compliance with these allocations by January 1, 2026, or~~
- ~~b. Request that their individual wasteload allocations become effective on January 1, 2023.~~

~~3. The compliance plans may rely on the exchange of point source credits in accordance with this general permit, but not the acquisition of credits through payments into the Nutrient Offset Fund (§ 10.1-2128.2 of the Code of Virginia), to achieve compliance with the individual and combined wasteload allocations in each tributary.~~

~~B. Every owner of a facility required to submit a registration statement shall either individually or through the Virginia Nutrient Credit Exchange Association submit annual compliance plan updates to the department for approval as required by Part I D of the general permit.~~

9VAC25-820-70. General permit.

Any owner whose registration statement is accepted by the board department will receive the following general permit and shall comply with the requirements of the general permit.

General Permit No.: VAN000000

Effective Date: January 1, ~~2022~~ 2027

Expiration Date: December 31, ~~2026~~ 2031

GENERAL PERMIT FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS NUTRIENT DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of facilities holding a VPDES individual permit or owners of facilities that otherwise meet the definition of an existing facility, with total nitrogen or total phosphorus discharges, or both to the Chesapeake Bay or its tributaries, are authorized to discharge to surface waters and exchange credits for total nitrogen or total phosphorus, or both.

The authorized discharge shall be in accordance with the registration statement filed with DEQ, this cover page, Part I-Special Conditions Applicable to All Facilities, Part II-Special Conditions Applicable to New and Expanded Facilities, and Part III-Conditions Applicable to All VPDES Permits, as set forth herein.

PART I

SPECIAL CONDITIONS APPLICABLE TO ALL FACILITIES

A. Authorized activities.

1. Authorization to discharge for owners of facilities required to register.

a. Every owner of a facility required to submit a registration statement to the department by November 1, ~~2024~~ 2026, and thereafter upon the reissuance of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the department's approval of the registration statement.

b. Any owner of a facility required to submit a registration statement with the department ~~at the time he makes application with the department~~ for a new discharge or expansion that is subject to an offset or technology-based requirement in Part II of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the department's approval of the registration statement.

c. Upon the department's approval of the registration statement, a facility will be included in the registration list maintained by the department.

Regulations

2. Authorization to discharge for owners of facilities not required to register. Any owner of a facility authorized by a VPDES permit and not required by this general permit to submit a registration statement shall be deemed to be authorized to discharge total nitrogen and total phosphorus under this general permit at the time it is issued. Owners of facilities that are deemed to be permitted under this subsection shall have no obligation under this general permit prior to submitting a registration statement and securing coverage under this general permit based upon such registration statement.

3. Continuation of permit coverage.

a. Any owner authorized to discharge under this general permit and who submits a complete registration statement for the reissued general permit by November 1, ~~2026~~ 2031, in accordance with Part III M or who is not required to register in accordance with Part I A 2 is authorized to continue to discharge under the terms of this general permit until such time as the ~~board~~ department either:

(1) Issues coverage to the owner under the reissued general permit, or

(2) Notifies the owner that the discharge is not eligible for coverage under this general permit.

b. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the ~~board~~ department may choose to do any or all of the following:

(1) Initiate enforcement action based upon the ~~2017~~ 2022 general permit,

(2) Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the administratively continued coverage under the terms of the ~~2017~~ 2022 general permit or be subject to enforcement action for operating without a permit, or

(3) Take other actions authorized by the State Water Control Law.

B. Wasteload allocations.

1. Wasteload allocations allocated to permitted facilities pursuant to 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, or applicable TMDLs, or wasteload allocations acquired by owners of new and expanding facilities to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion under Part II B of this general permit, and existing loads calculated from the permitted design capacity of expanding facilities not previously covered by this general permit, shall be incorporated into the registration list maintained by the department. The wasteload allocations contained in this list

shall be enforceable as annual mass load limits in this general permit. Credits shall not be generated by facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005.

2. Except as described in subdivisions 2 c and 2 d of this subsection, an owner of two or more facilities covered by this general permit and discharging to the same tributary may apply for and receive an aggregated mass load limit for delivered total nitrogen and an aggregated mass load limit for delivered total phosphorus reflecting the total of the water quality-based total nitrogen and total phosphorus wasteload allocations or permitted design capacities established for such facilities individually.

a. The permittee (and all of the individual facilities covered under a single registration) shall be deemed to be in compliance when the aggregate mass load discharged by the facilities is less than the aggregate mass load limit.

b. The permittee will be eligible to generate credits only if the aggregate mass load discharged by the facilities is less than the total of the wasteload allocations assigned to any of the affected facilities.

c. The aggregation of mass load limits shall not affect any requirement to comply with local water quality-based limitations.

d. Facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005, cannot be aggregated with other facilities under common ownership or operation.

e. Operation under an aggregated mass load limit in accordance with this section shall not be deemed credit acquisition as described in Part I J 2 of this general permit.

3. An owner that consolidates two or more facilities discharging to the same tributary into a single regional facility may apply for and receive ~~an aggregated a~~ consolidated mass load limit for total nitrogen and ~~an aggregated a~~ consolidated mass load limit for total phosphorus, subject to the following conditions:

a. ~~Aggregate~~ Consolidated mass load limits will be calculated accounting for delivery factors in effect at the time of the consolidation.

b. If all of the affected facilities have wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the ~~aggregate~~ consolidated mass load limit shall be calculated by adding the wasteload allocations of the affected facilities. ~~The regional facility shall be eligible to generate credits~~ Credits may be generated based on the consolidated wasteload allocation.

c. If any, but not all, of the affected facilities has a wasteload allocation in 9VAC25-720-50 C, 9VAC25-

720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the ~~aggregate consolidated~~ mass load limit shall be calculated by adding:

(1) Wasteload allocations of those facilities that have wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation;

(2) Permitted design capacities assigned to affected industrial facilities; and

(3) Loads from affected sewage treatment works that do not have a wasteload allocation in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, defined as the lesser of a previously calculated permitted design capacity, or the values calculated by the following ~~formulae~~ formulas:

Nitrogen Load (lbs/ year) = flow (MGD) x 8.0 mg/l x 8.345 x 365 days/year

Phosphorus Load (lbs/ year) = flow (MGD) x 1.0 mg/l x 8.345 x 365 days/year

Flows used in the preceding ~~formulae~~ formulas shall be the design flow of the treatment works from which the affected facility currently discharges.

~~The regional facility shall be eligible to generate credits. Credits may be generated based on the consolidated wasteload allocation.~~

d. If none of the affected facilities have a wasteload allocation in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the ~~aggregate consolidated~~ mass load limit shall be calculated by adding the respective permitted design capacities for the affected facilities.

e. Facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005, may be consolidated with other facilities under common ownership or operation, but their allocations cannot be transferred ~~to the regional facility~~.

f. Facilities whose operations were previously authorized by a VPA permit that was issued before July 1, 2005, can ~~become regional~~ receive effluent from other facilities, but they cannot receive additional allocations beyond those permitted in Part II B 1 d of this general permit.

4. An owner that consolidates two or more facilities discharging into different tributaries may apply for a consolidated mass load limit for total nitrogen and a consolidated mass load limit for total phosphorus. The department will evaluate the request on a case-by-case basis, taking into account the conditions set forth in Part I B 3 a through Part I B 3 d of this section and any additional

conditions necessary and appropriate for water quality protection.

5. Termination of a wasteload allocation. If a facility's individual and general permit are terminated or expire with no consolidation of wasteload allocations, the following shall apply:

a. If a facility has wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the wasteload allocations shall be transferred to the Nutrient Offset Fund and the facility removed from the registration list.

b. If a facility has wasteload allocations based on permitted design capacity, the facility and the wasteload allocations shall be removed from the registration list.

~~4. 6.~~ Unless otherwise noted, the nitrogen and phosphorus wasteload allocations assigned to permitted facilities are considered total loads, including nutrients present in the intake water from the river, as applicable. On a case-by-case basis, an industrial discharger may demonstrate to the satisfaction of the ~~board~~ department that a portion of the nutrient load originates in ~~its~~ the industrial discharger's intake water. This demonstration shall be consistent with the assumptions and methods used to derive the allocations through the Chesapeake Bay models. In these cases, the ~~board~~ department may limit the permitted discharge to the net nutrient load portion of the assigned wasteload allocation.

~~5. 7.~~ Bioavailability. Unless otherwise noted, the entire nitrogen and phosphorus wasteload allocations assigned to permitted facilities are considered to be bioavailable to organisms in the receiving stream. On a case-by-case basis, a discharger may demonstrate to the satisfaction of the ~~board~~ department that a portion of the nutrient load is not bioavailable; this demonstration shall not be based on the ability of the nutrient to resist degradation at the wastewater treatment plant, but instead, on the ability of the nutrient to resist degradation within a natural environment for the amount of time that it is expected to remain in the Chesapeake Bay watershed. This demonstration shall also be consistent with the assumptions and methods used to derive the allocations through the Chesapeake Bay models. In these cases, the ~~board~~ department may limit the permitted discharge to the bioavailable portion of the assigned wasteload allocation.

C. Schedule of compliance.

1. For facilities listed in 9VAC25-820-80 A, compliance with reduced wasteload allocations established by the Enhanced Nutrient Removal Certainty Program shall be on the effective date of the reduced allocations as established in 9VAC25-720-60 and 9VAC25-720-120. For facilities listed in 9VAC25-820-80 B, compliance with chlorophyll-a based

Regulations

total phosphorus wasteload allocations shall be achieved as soon as possible but no later than January 1, 2026.

2. Following submission of compliance plans and compliance plan updates required by 9VAC25-820-40, the board department shall reevaluate the schedule of compliance in subdivision 1 of this subsection, taking into account the information in the compliance plans and the factors in § 62.1-44.19:14 C 2 of the Code of Virginia. When warranted based on such information and factors, the board department shall adjust the schedule in subdivision 1 of this subsection as appropriate by modification or reissuance of this general permit.

3. The registration list shall contain individual dates for compliance with wasteload allocations for dischargers, as follows:

a. Owners of facilities listed in 9VAC25-820-80 B will have individual dates for compliance based on their respective compliance plans that may be earlier than the schedule listed in subdivision 1 of this subsection.

b. Owners of facilities listed in 9VAC25-820-80 B that waive their compliance schedules in accordance with 9VAC25-820-40 A 2 b shall have an individual compliance date of January 1, 2023.

c. Upon completion of the projects contained in their compliance plans, owners of facilities listed in 9VAC25-820-80 B may receive a revised individual compliance date of January 1 for the calendar year immediately following the year in which a Certificate to Operate was issued for the capital projects, but not later than January 1, 2026.

d. Owners of new and expanded facilities will have individual dates for compliance corresponding to the date that coverage under this general permit was extended to discharges from the facility.

D. Annual update of compliance plan. Every owner of a facility required to submit a registration statement shall either individually or through the Virginia Nutrient Credit Exchange Association submit updated compliance plans to

C. Schedule of compliance.

the department no later than February 1 of each year. The compliance plans shall contain sufficient information to document a plan to achieve and maintain compliance with applicable total nitrogen and total phosphorus individual wasteload allocations on the registration list and aggregate wasteload allocations in Part I C 3. Compliance plans for owners of facilities that were required to submit a registration statement with the department under Part I G 1 a may rely on the acquisition of point source credits in accordance with Part I J of this general permit to achieve compliance with the individual and combined wasteload allocations in each tributary. Annual compliance plan updates for facilities subject to reduced wasteload allocations and listed in 9VAC25-820-80 shall not rely on the acquisition of credits through payments into the Nutrient Offset Fund. Compliance plans for expansions or new discharges for owners of facilities that are required to submit a registration statement with the department under Part I G 1 b and c may rely on the acquisition of allocation in accordance with Part II B of this general permit to achieve compliance with the individual and combined wasteload allocations in each tributary.

E. Monitoring requirements.

1. Discharges shall be monitored by the permittee during weekdays as specified in the table below unless the department determines that weekday only sampling results in a non-representative load. Weekend monitoring or alternative monthly load calculations to address production schedules or seasonal flows shall be submitted to the department for review and approval on a case-by-case basis. Facilities that exhibit instantaneous discharge flows that vary from the daily average discharge flow by less than 10% may submit a proposal to the department to use an alternative sample type; such proposals shall be reviewed and approved by the department on a case-by-case basis.

Parameter	Sample Type and Collection Frequency					
STP design flow	≥20.0 less than 0.040 MGD	1.0–19.999 0.040-0.499 MGD	0.5-0.999 MGD	0.5–0.999 1.0-4.99 MGD	0.040–0.499 5.0-19.999 MGD	<0.040 greater than or equal to 20.0 MGD
Effluent TN load limit for industrial facilities	less than 487 lb/yr	≥100,000 487 - 49,999 lb/yr	50,000- 99,999 lb/yr	50,000– 99,999 100,000- 349,999 lb/yr	487–49,999 greater than 350,000 lb/yr	< 487 lb/yr
Effluent TP load limit for industrial facilities	less than 37 lb/yr	≥10,000 37- 4,999 lb/yr	5,000- 9,999 lb/yr	5,000–9,999 10,000- 34,999 lb/yr	37–4,999 greater than 35,000 lb/yr	< 37 lb/yr

Flow		Totalizing, Indicating, and Recording					1/Day, see individual VPDES permit for sample type
Flow	<u>1/Day, see individual VPDES permit for sample types</u>	<u>Totalizing, Indicating, and Recording</u>					
Nitrogen Compounds (Total Nitrogen = TKN + NO ₂ - (as N) + NO ₃ - (as N))	<u>24 HC</u> <u>3 Days/Week</u> <u>1/Month Grab</u>	<u>24 HC</u> <u>2 Days/Week*</u> <u>8 HC</u> <u>2/Month, greater than 7 days apart</u>	<u>8 HC</u> <u>1 Day/Week</u>	<u>8 HC</u> <u>2 Days/Week</u> <u>24 HC</u> <u>1 Day/Week</u>	<u>8 HC</u> <u>2/Month, > 7 days apart</u> <u>24 HC</u> <u>2 Days/Week*</u>	<u>1/Month Grab</u> <u>24 HC</u> <u>3 Days/Week</u>	
Total Phosphorus	<u>24 HC</u> <u>3 Days/Week</u> <u>1/Month Grab</u>	<u>24 HC</u> <u>2 Days/Week*</u> <u>8 HC</u> <u>2/Month, greater than 7 days apart</u>	<u>8 HC</u> <u>1 Day/Week</u>	<u>8 HC</u> <u>2 Days/Week</u> <u>24 HC</u> <u>1 Day/Week</u>	<u>8 HC</u> <u>2/Month, > 7 days apart</u> <u>24 HC</u> <u>2 Days/Week*</u>	<u>1/Month Grab</u> <u>24 HC</u> <u>3 Days/Week</u>	
*Two flow composited samples taken in the same calendar week that are then composited by flow into a single weekly composite sample for analysis shall be considered to be in compliance with this requirement.							

2. Monitoring for compliance with effluent limitations shall be performed in a manner identical to that used to determine compliance with effluent limitations established in the individual VPDES permit unless specified otherwise in subdivisions 3, 4, and 5 of Part I E. Monitoring or sampling shall be conducted according to analytical laboratory methods approved under 40 CFR Part 136, unless other test or sample collection procedures have been requested by the permittee and approved by the department in writing. All analysis for compliance with effluent limitations shall be conducted in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories. Monitoring may be performed by the permittee at frequencies more stringent than listed in subdivision 1 of Part I E; however, the permittee shall report all results of such monitoring.

3. Loading values greater than or equal to 10 pounds reported in accordance with Part I E and F of this general permit shall be calculated and reported to the nearest pound without regard to mathematical rules of precision. Loading values of less than 10 pounds reported in accordance with Part I E and F of this general permit shall be calculated and reported to at least two significant digits with the exception that all complete calendar year annual loads shall be reported to the nearest pound.

4. Data shall be reported on a form provided by the department, by the same date each month as is required by the owner's individual VPDES permit. The total monthly load shall be calculated in accordance with the following formula:

$$ML = \left(\frac{\sum DL}{s} \right) \times d$$

where:

ML = total monthly load (lb/mo) = average daily load for the calendar month multiplied by the number of days of the calendar month on which a discharge occurred

DL = daily load = daily concentration (expressed as mg/l to the nearest 0.01 mg/l) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to at least the nearest 0.01 MGD and in no case less than two significant digits), multiplied by 8.345. Daily loads greater than or equal to 10 pounds may be rounded to the nearest whole number to convert to pounds per day (lbs/day). Daily loads less than or equal to 10 pounds may be rounded to no fewer than two significant figures.

s = number of days in the calendar month in which a sample was collected and analyzed

d = number of discharge days in the calendar month

Regulations

For total phosphorus, all daily concentration data below the quantification level (QL) for the analytical method used shall be treated as half the QL (without rounding). All daily concentration data equal to or above the QL for the analytical method used shall be treated as it is reported. If all data are below the QL, then the average shall be reported as half the QL.

For total nitrogen (TN), if none of the daily concentration data for the respective species (i.e., TKN, nitrates/nitrites) are equal to or above the QL for the respective analytical methods used, the daily TN concentration value reported shall equal one half of the largest QL (without rounding) used for the respective species. If one of the data is equal to or above the QL, the daily TN concentration value shall be treated as that data point as reported. If more than one of the data is above the QL, the daily TN concentration value shall equal the sum of the data points as reported.

The quantification levels shall be less than or equal to the following concentrations:

Parameter	Quantification Level
TKN	0.50 mg/l
Nitrite	0.10 mg/l
Nitrate	0.20 mg/l
Nitrite + Nitrate	0.20 mg/l

Higher QLs may be approved on a case-by-case basis where a higher QL routinely results in reportable results of the species in question or is otherwise technically appropriate based on standard lab practices.

The total year-to-date mass load shall be calculated in accordance with the following formula:

$$AL_{YTD} = \sum_{(Jan-present)} ML$$

where:

AL-YTD = calendar year-to-date annual load (lb/yr)

ML = total monthly load (lb/mo)

The total annual mass load shall be calculated in accordance with the following formula:

$$AL = \sum_{(Jan-Dec)} ML$$

where:

AL = calendar year annual load (lb/yr)

ML = total monthly load (lb/mo)

5. The department may authorize a chemical usage evaluation as an alternative means of determining nutrient loading for outfalls where the only source of nutrients is that

found in the surface water intake and chemical additives used by the facility. Such an evaluation shall be submitted to the department for review and approval on a case-by-case basis. Implementation of approved chemical usage evaluations shall satisfy the requirements specified under Part I E 1 and 2.

6. Monthly average concentration data reporting. For total phosphorus, TKN, and nitrite + nitrate monthly average concentration values. All concentration data below the QL used for the analysis shall be treated as one-half of the QL (without rounding). All concentration data equal to or above the QL used for the analysis shall be treated as it is reported to the nearest 0.01 mg/L. An arithmetic average shall be calculated using all reported data for the month. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated to the nearest 0.01 mg/L.

For nitrite + nitrate if tested separately, add the daily total nitrite and nitrate concentrations to obtain the daily nitrite + nitrate values. If none of the daily concentrations data for the respective species tested separately (nitrites, nitrates) are equal to or above the QL for the respective analytical methods used, the daily nitrite + nitrate concentration value shall equal one-half of the largest QL (without rounding) used for the respective species. If one of the data is equal or above the QL, the daily nitrite + nitrate concentration value shall be treated as that data point as reported. If more than one of the data is above the QL, the daily nitrite + nitrate concentration value shall equal the sum of the data points as reported. An arithmetic average shall be calculated using all reported data for the month. This arithmetic average shall be reported on the DMR as calculated to the nearest 0.01 mg/L.

F. Annual reporting. On or before February 1, annually, each permittee shall file a discharge monitoring report with the department identifying the annual mass load of total nitrogen and the annual mass load of total phosphorus discharged by the permitted facility during the previous calendar year.

G. Requirement to register; exclusions.

1. The following owners are required to register for coverage under this general permit:

a. Every owner of an existing facility authorized by a VPDES permit to discharge 100,000 gallons or more per day from a sewage treatment work, or an equivalent load from an industrial facility, directly into tidal waters, or 500,000 gallons or more per day from a sewage treatment works, or an equivalent load from an industrial facility, directly into nontidal waters shall submit a registration statement to the department by November 1, ~~2016~~ 2026, and thereafter upon the reissuance of this general permit in accordance with Part III M. The conditions of this general permit will apply to such owner upon approval of a registration statement.

b. Any owner of a facility authorized by a ~~Virginia Pollutant Discharge Elimination System~~ VPDES permit to discharge 40,000 gallons or more per day from a sewage treatment works, or an equivalent load from an industrial facility, directly into tidal or nontidal waters shall submit a registration statement with the department at the time ~~he~~ the owner submits an application for an individual permit with the department for a new discharge or expansion that is subject to an offset requirement in Part II of this general permit or to a technology-based requirement in 9VAC25-40-70, and thereafter upon the reissuance of this general permit in accordance with Part III M. The conditions of this general permit will apply to such owner beginning January 1 of the calendar year immediately following approval of a registration statement and issuance or modification of the individual permit.

c. Any owner of a facility treating domestic sewage authorized by a VPDES permit with a discharge greater than 1,000 gallons per day up to and including 39,999 gallons per day that did not commence the discharge of pollutants prior to January 1, 2011, and is subject to offset requirements in accordance with Part II A 1 c of this general permit shall submit a registration statement with the department at the time the owner makes application for an individual permit with the department or prior to commencing a discharge, whichever occurs first, and thereafter upon the reissuance of this general permit in accordance with Part III M.

2. All other categories of discharges are excluded from registration under this general permit.

H. Registration statement.

1. The registration statement shall contain the following information:

- a. Name, mailing address, ~~and~~ telephone number, and email address, ~~and fax number~~ of the owner (and facility operator, if different from the owner) applying for permit coverage;
- b. Name (or other identifier), address, city or county, contact name, phone number, and email address, ~~and fax number~~ for the facility for which the registration statement is submitted;
- c. VPDES permit numbers for all permits assigned to the facility, or pursuant to which the discharge is authorized;
- d. If applying for an aggregated wasteload allocation in accordance with Part I B 2 of this permit, a list of all affected facilities and the VPDES permit numbers assigned to these facilities;
- e. For new and expanded facilities, a plan to offset new or increased delivered total nitrogen and delivered total phosphorus loads, including the amount of wasteload allocation acquired. Wasteload allocations or credits

sufficient to offset projected nutrient loads must be provided for period of at least five years; and

f. For existing facilities, the amount of a facility's wasteload allocation transferred to or from another facility to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.

2. The registration statement shall be submitted to the DEQ Central Office, Office of VPDES Permits. Following notification from the department of the start date for the required electronic submission of Notices of Intent to Discharge forms (i.e., registration statements), as provided for in 9VAC25-31-1020, such form submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. At least three months' notice shall be provided between the notification from the department and the date after which such forms must be submitted electronically.

3. An amended registration statement shall be submitted to DEQ immediately upon the acquisition or transfer of a facility's wasteload allocation to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.

I. Public notice for registration statements proposing modifications or incorporations of new wasteload allocations or delivery factors.

1. All public notices issued pursuant to a proposed modification or incorporation of a (i) new wasteload allocation to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion or (ii) delivery factor shall be published once a week for two consecutive weeks in a local newspaper of general circulation serving the locality where the facility is located informing the public that the owner of the facility intends to apply for coverage under this general permit. At a minimum, the notice shall include:

- a. A statement of the owner's intent to register for coverage under this general permit;
- b. A brief description of the facility and its location;
- c. The amount of wasteload allocation that will be acquired or transferred if applicable;
- d. The delivery factor for a new discharge or expansion;
- e. If applicable, any proposed nonpoint source to point source trading ratio less than 2:1 proposed under Part II B 1 b (1);
- f. A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate communication, and to establish a dialogue between the owner and persons who may be affected by the discharge from the facility;

Regulations

g. An announcement of a 30-day comment period and the name, telephone number, and address of the owner's representative who can be contacted by the interested persons to answer questions;

h. The name, telephone number, and address of the DEQ representative who can be contacted by the interested persons to answer questions, or where comments shall be sent; and

i. The location where copies of the documentation to be submitted to the department in support of this general permit notification and any supporting documents can be viewed and copied.

2. The owner shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.

3. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the notice is published in the local newspaper.

J. Compliance with wasteload allocations.

1. Methods of compliance. The owner of the permitted facility shall comply with its wasteload allocation contained in the registration list maintained by the department. The owner of the permitted facility shall be in compliance with its wasteload allocation if:

a. The annual mass load is less than or equal to the applicable wasteload allocation assigned to the facility in this general permit (or permitted design capacity for expanded facilities without allocations);

b. The owner of the permitted facility acquires sufficient point source nitrogen or phosphorus credits in accordance with subdivision 2 of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not alter or otherwise affect the individual wasteload allocations for each permitted facility; or

c. In the event he is unable to meet the individual wasteload allocation pursuant to subdivision 1 a or 1 b of this subsection, the owner of the permitted facility acquires sufficient nitrogen or phosphorus credits through payments made into the Nutrient Offset Fund pursuant to subdivision 3 of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not alter or otherwise affect the individual wasteload allocations for each permitted facility.

2. Credit acquisition from owners of permitted facilities. A permittee may acquire point source nitrogen credits or point source phosphorus credits from one or more owners of permitted facilities only if:

a. The credits are generated and applied to a compliance obligation in the same calendar year;

b. The credits are generated by one or more permitted facilities in the same tributary, except that owners of permitted facilities in the Eastern Shore Basin may also acquire credits from owners of permitted facilities in the Potomac and Rappahannock tributaries. Owners of Eastern Shore Basin facilities may acquire credits from the owners of Potomac tributary facilities at a trading ratio of 1:1. A trading ratio of 1.3:1 shall apply to the acquisition of credits from the owners of a Rappahannock tributary facility by the owner of an Eastern Shore Basin facility;

c. The exchange or acquisition of credits does not affect any requirement to comply with local water quality-based limitations as determined by the ~~board~~ department;

d. The credits are acquired no later than June 1 immediately following the calendar year in which the credits are applied;

e. The credits are generated by a facility that has been constructed, and has discharged from treatment works whose design flow or equivalent industrial activity is the basis for the facility's wasteload allocations (until a facility is constructed and has commenced operation, such credits are held, and may be sold, by the Nutrient Offset Fund; and

f. No later than June 1 immediately following the calendar year in which the credits are applied, the permittee certifies on a credit exchange notification form supplied by the department that he has acquired sufficient credits to satisfy his compliance obligations. The permittee shall comply with the terms and conditions contained in the credit exchange notification form submitted to the department.

3. Credit acquisitions from the Nutrient Offset Fund. Until such time as the ~~board~~ department finds that no allocations are reasonably available in an individual tributary, permittees that cannot meet their total nitrogen or total phosphorus effluent limit may acquire nitrogen or phosphorus credits through payments made into the Nutrient Offset Fund established in § 10.1-2128.2 of the Code of Virginia only if, no later than June 1 immediately following the calendar year in which the credits are to be applied, the permittee certifies on a form supplied by the department that he has diligently sought, but has been unable to acquire, sufficient credits to satisfy his compliance obligations through the acquisition of point source nitrogen or phosphorus credits with other permitted facilities, and that he has acquired sufficient credits to satisfy his compliance obligations through one or more payments made in accordance with the terms of this general permit. Such certification may include providing a record of solicitation or demonstration that point source allocations are not available for sale in the tributary in which the permittee's facility is located. Payments to the Nutrient Offset Fund

shall be in the amount of ~~\$5.08~~ \$9.23 for each pound of nitrogen and ~~\$11.15~~ \$20.26 for each pound of phosphorus and shall be subject to the following requirements:

- a. The credits are generated and applied to a compliance obligation in the same calendar year.
 - b. The credits are generated in the same tributary, except that owners of permitted facilities in the Eastern Shore Basin may also acquire credits from the owners of facilities that discharge to the Potomac and Rappahannock tributaries. Owners of Eastern Shore Basin facilities may acquire credits from the owners of facilities that discharge to a Potomac tributary at a trading ratio of 1:1. A trading ratio of 1.3:1 shall apply to the acquisition of credits from owners of facilities that discharge to a Rappahannock tributary by the owners of an Eastern Shore Basin facility.
 - c. The acquisition of credits does not affect any requirement to comply with local water quality-based limitations, as determined by the ~~board~~ department.
4. This general permit neither requires nor prohibits a municipality or regional sewerage authority's development and implementation of trading programs among industrial users, which are consistent with the pretreatment regulatory requirements at 40 CFR Part 403 and the municipality's or authority's individual VPDES permit.

Part II

SPECIAL CONDITIONS APPLICABLE TO NEW AND EXPANDED FACILITIES

A. Offsetting mass loads discharged by new and expanded facilities.

1. An owner of a new or expanded facility shall comply with the applicable requirements of this section as a condition of the facility's coverage under this general permit.
 - a. An owner of a facility authorized by a VPDES permit first issued before July 1, 2005, that expands the facility to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset any increase in his delivered total nitrogen and delivered total phosphorus loads resulting from any expansion beyond his permitted capacity as of July 1, 2005.
 - b. An owner of a facility authorized by a VPDES permit first issued on or after July 1, 2005, to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset his delivered total nitrogen and delivered total phosphorus loads.
 - c. An owner of a facility treating domestic sewage authorized by a VPDES permit with a discharge greater than 1,000 gallons per day up to and including 39,999 gallons per day that did not commence the discharge of pollutants prior to January 1, 2011, shall demonstrate to the department that he has acquired wasteload allocations

sufficient to offset his delivered total nitrogen and delivered phosphorus loads prior to commencing the discharge, except when the facility is for short-term temporary use only as determined by the department or when treatment of domestic sewage is not the primary purpose of the facility.

2. Offset calculations shall address the proposed discharge that exceeds:

- a. The applicable wasteload allocation assigned to discharges from the facility in this general permit, for expanding significant dischargers with a wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation;
- b. The permitted design capacity, for all other expanding dischargers; and
- c. Zero, for facilities with a new discharge.

3. An owner of multiple facilities that discharge into the same tributary, and assigned an aggregate mass load limit in accordance with Part I B 2 of this general permit, that undertakes construction of new or expanded facilities shall be required to acquire wasteload allocations sufficient to offset any increase in delivered total nitrogen and delivered total phosphorus loads resulting from any expansion beyond the aggregate mass load limit assigned these facilities.

B. Acquisition of wasteload allocations. Wasteload allocations required by this section to offset new or increased delivered total nitrogen and delivered total phosphorus loads shall be acquired in accordance with this section.

1. Such allocations may be acquired from one or a combination of the following:
 - a. Acquisition of all or a portion of the wasteload allocations or point source nitrogen or point source phosphorus credits from the owners of one or more permitted facilities, either directly from the owner or, in the case of point source credits, through the Virginia Nutrient Credit Exchange Association based on delivered pounds by the respective trading parties as listed by the department;
 - b. Acquisition of credits certified by the ~~board~~ department pursuant to § 62.1-44.19:20 of the Code of Virginia. Credits used to offset new or increased nutrient loads under this subdivision shall be:
 - (1) Subject to a trading ratio of two pounds reduced for every pound to be discharged if certified as a nonpoint source credit by the ~~board~~ department pursuant to § 62.1-44.19:20 of the Code of Virginia. On a case-by-case basis the ~~board~~ department may approve nonpoint source to source trading ratios of less than 2:1 (but not less than 1:1) when the applicant demonstrates factors that ameliorate

Regulations

the presumed 2:1 uncertainty ratio for credits generation by nonpoint sources such as:

(a) When direct and representative monitoring of the pollutant loadings from a nonpoint source is performed in a manner and at a frequency similar to that performed at VPDES point sources and there is consistency in the effectiveness of the operation of the nonpoint source best management practice (BMP) approaching that of a conventional point source.

(b) When nonpoint source credits are generated from land conservation that ensures permanent protection through a conservation easement or other instrument attached to the deed and when load reductions can be reliably determined;

(2) Calculated using best management practices efficiency rates and attenuation rates, as established by the latest science and relevant technical information, and approved by the ~~board~~ department;

(3) Based on appropriate delivery factors, as established by the latest science and relevant technical information, and approved by the ~~board~~ department;

(4) Demonstrated to have achieved reductions beyond those already required by or funded under federal or state law, or by Virginia's Chesapeake Bay TMDL Watershed Implementation Plan;

(5) Generated in accordance with conditions of the facility's individual VPDES permit; and

(6) In the case of credits generated by land use conversions and urban source reduction controls (BMPs), the credits shall represent nutrient reductions beyond those in place as of July 1, 2005;

c. Until such time as the ~~board~~ department finds that no allocations are reasonably available in an individual tributary, acquisition of allocations through payments made into the Nutrient Offset Fund established in § 10.1-2128.2 of the Code of Virginia; or

d. Acquisition of allocations through such other means as may be approved by the department on a case-by-case basis. This includes allocations granted by the ~~board~~ department to an owner of a facility that is authorized by a VPA permit to land apply domestic sewage if:

(1) The VPA permit was issued before July 1, 2005;

(2) The allocation does not exceed the facility's permitted design capacity as of July 1, 2005;

(3) The waste treated by the facility that is covered under the VPA permit will be treated and discharged pursuant to a VPDES permit for a new discharge; and

(4) The owner installs state-of-the-art nutrient removal technology at such a facility.

2. Acquisition of allocations or point source nitrogen or point source phosphorus credits is subject to the following conditions:

a. The allocations or credits shall be generated and applied to an offset obligation in the same calendar year in which the credit is generated;

b. The allocations or credits shall be generated in the same tributary;

c. Such acquisition does not affect any requirement to comply with local water quality-based limitations, as determined by the ~~board~~ department;

d. The allocations are authenticated (i.e., verified to have been generated) by the permittee as required by the facility's individual VPDES permit, utilizing procedures approved by the ~~board~~ department, no later than February 1 immediately following the calendar year in which the allocations are applied; and

e. If obtained from the owner of a permitted point source, the allocations shall be generated by a facility that has been constructed, and has discharged from treatment works whose design flow or equivalent industrial activity is the basis for the facility's wasteload allocations.

f. Such allocations or credits shall be secured for a period of five years with each registration under the general permit.

3. Priority of options. The ~~board~~ department shall give priority to allocations or credits acquired in accordance with subdivisions 1 a, b, and d of this subsection. The ~~board~~ department shall approve allocations acquired in accordance with subdivision 1 c of this subsection only after the owner has demonstrated that he has made a good faith effort to acquire sufficient allocations in accordance with subdivisions 1 a and 1 b of this subsection, and that such allocations are not reasonably available taking into account timing, cost and other relevant factors. Such demonstration may include providing a record of solicitation, or other demonstration that point source allocations or nonpoint source allocations are not available for sale in the tributary in which the permittee's facility discharge is located.

4. Annual allocation acquisitions from the Nutrient Offset Fund. The cost for each pound of nitrogen and each pound of phosphorus shall be determined at the time payment is made to the Nutrient Offset Fund, based on the higher of (i) the estimated cost of achieving a reduction of one pound of nitrogen or phosphorus at the facility that is securing the allocation, or comparable facility, for each pound of allocation acquired; or (ii) the average cost, as determined by the department on an annual basis, of reducing two pounds of nitrogen or phosphorus from nonpoint sources in the same tributary for each pound of allocation acquired.

Part III

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45 (Certification for Noncommercial Environmental Laboratories) or 1VAC30-46 (Accreditation for Commercial Environmental Laboratories).

B. Records.

1. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individuals who performed the sampling or measurements;
- c. The dates and times analyses were performed;
- d. The individuals who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report, or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee or as requested by the board department.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved, or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by

this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the DMR or reporting form specified by the department.

4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The board department may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from the discharge on the quality of state waters or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board department, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee that discharges or causes or allows a discharge of sewage, industrial waste, other wastes, or any noxious or deleterious substance into or upon state waters in violation of Part III F, or that discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

Regulations

2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the present discharge or any future discharge not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

1. An oral or online report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this paragraph:
 - a. Any unanticipated bypass; and
 - b. Any upset that causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;

- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The ~~board~~ department may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral or online report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Part III G, H, and I ~~may~~ shall be made to the department's regional office. Reports may be made by telephone or online at <https://www.deq.virginia.gov/our-programs/pollution-response> (online reporting is preferred). For reports outside normal working hours, ~~a message may be left and this shall fulfill the immediate reporting requirement the online portal shall be used.~~ For emergencies, call the Virginia Department of Emergency Management maintains a 24-hour telephone service Operations Center (24 hours) at 1-800-468-8892.

4. When the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, the permittee shall promptly submit such facts or information.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act (33 USC § 1251 et seq.) that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the Clean Water Act within 120 days of their proposal;

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or of disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or of disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits and other information requested by the ~~board~~ department shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of

the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action, permit coverage termination, or denial of a permit coverage renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by

Regulations

the ~~board~~ department. The ~~board~~ department shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights or any infringement of federal, state, or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U) and "upset" (Part III V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may

allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part III U 2 and 3.

2. Notice.

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

- a. Bypass is prohibited, and the ~~board~~ department may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

- (3) The permittee submitted notices as required under Part III U 2.

- b. The ~~board~~ department may approve an anticipated bypass after considering ~~its~~ adverse effects of the anticipated bypass if the ~~board~~ department determines that it will meet the three conditions listed in Part III U 3 a.

V. Upset.

1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the cause or causes of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with remedial measures required under Part III S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative (including an authorized contractor acting as a representative of the administrator) upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours or whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permit coverage. Permit coverage is not transferable to any person except after notice to the department. Coverage under this permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property, unless permission for a later date has been granted by the board department;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
3. The board department does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement described in Part III Y 2.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any

provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9VAC25-820-80. Facilities subject to reduced individual total nitrogen and total phosphorus wasteload allocations.

A. Enhanced Nutrient Removal Certainty Program facilities

Facility	VPDES No.
HRSD - York River STP	VA0081311
HRSD - Boat Harbor STP	VA0081256
HRSD - James River STP	VA0081272
HRSD - Williamsburg STP	VA0081302
HRSD - Nansemond STP	VA0081299
HRSD - Army Base STP	VA0081230
HRSD - VIP WWTP	VA0081281

B. ~~Chlorophyll a based total phosphorus wasteload allocations.~~

Facility	VPDES No.
Richmond WWTP	VA0063177
Falling Creek WWTP	VA0024996
Proctor's Creek WWTP	VA0060194
Henrico County WWTP	VA0063690
Phillip Morris Park 500	VA0026557
Hopewell WWTP	VA0066630
South Central Wastewater Authority WWTP	VA0025437

VA.R. Doc. No. R24-8010; Filed September 16, 2025, 8:52 a.m.

TITLE 13. HOUSING

VIRGINIA MANUFACTURED HOUSING BOARD

Proposed Regulation

Title of Regulation: 13VAC6-20. Manufactured Housing Licensing and Transaction Recovery Fund Regulations (amending 13VAC6-20-20, 13VAC6-20-50, 13VAC6-20-90, 13VAC6-20-130, 13VAC6-20-201, 13VAC6-20-210, 13VAC6-20-230, 13VAC6-20-310, 13VAC6-20-330, 13VAC6-20-370, 13VAC6-20-430; adding 13VAC6-20-17, 13VAC6-20-18, 13VAC6-20-19; repealing 13VAC6-20-30, 13VAC6-20-40, 13VAC6-20-60, 13VAC6-20-70, 13VAC6-

Regulations

20-100, 13VAC6-20-110, 13VAC6-20-140, 13VAC6-20-280, 13VAC6-20-380).

Statutory Authority: §§ 36-85.18 and 36-85.36 of the Code of Virginia.

Public Hearing Information:

November 12, 2025 - 10 a.m. - Virginia Housing Center,
4224 Cox Road, Glen Allen, VA 23060.

Public Comment Deadline: December 5, 2025.

Agency Contact: Chase Sawyer, Senior Policy Analyst,
Department of Housing and Community Development, 600
East Main Street, Suite 300, Richmond, VA 23219, telephone
(804) 310-5872, fax (804) 371-7090, TDD (804) 371-7089, or
email chase.sawyer@dhcd.virginia.gov.

Basis: Section 36-85.18 of the Code of Virginia authorizes the Virginia Manufactured Housing Board to promulgate regulations necessary to carry out the provisions of the Manufactured Housing Licensing Transaction Recovery Fund Law (§ 36-85.16 et seq. of the Code of Virginia), including the licensure of manufactured home brokers, dealers, manufacturers, and salespersons and the relicensure of manufactured home brokers, dealers, manufacturers, and salespersons after license revocation or nonrenewal. Section 36-85.36 of the Code of Virginia authorizes the board to promulgate regulations for the administration of the Manufactured Housing Licensing Transaction Recovery Fund (MHLTRF) to ensure the satisfaction of claims.

Purpose: The proposed amendments benefit manufacturers, dealers, brokers, and salespersons by making it easier to understand the applicable requirements and by saving time when complying with the requirements. The proposed changes create a more efficient, streamlined regulation without materially impacting the administration of the MHLTRF.

Substance: The proposed amendments (i) add new sections related to the licensing of manufacturers, dealers, brokers, and salespersons, which consolidate requirements that currently appear separately for each license type; (ii) remove a filing requirement for manufacturers related to dealer and manufacturer sales agreements; (iii) remove records retention requirements for advertisers; (iv) update provisions related to warranty claims; (v) update provisions regarding manufacturer authorized alterations by a homeowner; (vi) remove unnecessary language related to the minimum information required to be furnished with a claim; and (vii) remove requirements for a salesperson working for more than one company or locations with different owners to be licensed separately for each and pay a separate assessment for each license.

Issues: The primary benefit of the proposed changes is the consolidation of the MHLTRF regulation, which will result in time savings for regulants. Additionally, the proposed changes remove some requirements, which will lessen the administrative burden on regulants. The agency, and subsequently consumers, may incur minor indirect costs for the

loss in fees collected in the Transaction Recovery Fund, which carries out the consumer protection program, payment of claims for damages, and disciplinary actions against license holders; however, regulants with multiple locations would experience cost-savings. The agency does not anticipate the lost fee revenue would affect the solvency of the fund. Additionally, the proposed changes would help prevent overly burdensome regulatory costs from being passed on to families in Virginia. As producers of manufactured houses save time and money from simpler and easy-to-understand licensing requirements, families will benefit from more affordable housing options. There are no anticipated disadvantages for the public, the agency, or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with §2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. The Virginia Manufactured Housing² Board (board) proposes to remove (i) a requirement for a salesperson working for more than one company or locations with different owners to be licensed separately for each and pay a separate assessment for each license; (ii) a filing requirement for manufacturers related to dealer-manufacturer sales agreements; (iii) a requirement for manufacturers to provide continued parts and service support for a discontinued line of homes for at least five years from the date of such discontinuance; and (iv) the records retention requirements for advertisers. The board proposes additional changes for clarity and organization.

Background. The current regulation specifies that if a salesperson works for more than one company or at locations with different owners, he shall be licensed separately for each and pay a separate Transaction Recovery Fund assessment for each such license. The board proposes to remove this text and only require that salespeople have one sales license, regardless of how many companies they work for. The current regulation requires that each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer or manufacturer sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. Further, it specifies that the department shall review the form for terms inconsistent with the requirements of this chapter. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board. The board proposes to eliminate all of this text. The current regulation requires that manufacturers provide continued parts and service support to a dealer for a discontinued line of homes for at least five years from the date of such discontinuance. The board proposes to eliminate this requirement. The current regulation requires that advertisers maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement. The board also proposes to eliminate this requirement.

Estimated Benefits and Costs. The salesperson fee is \$100 annually. Thus, a salesperson who works for two companies or locations with different owners would save \$100 annually due to the proposal to no longer require a separate license for each company for whom the salesperson works. A salesperson who works for three companies or locations with different owners would save \$200 annually, and so on. Currently there are 45 salespeople who have multiple licenses because they work for more than one company or locations with different owners.³ These 45 salespeople would have savings as just described. The Department of Housing and Community Development (DHCD) reports that requiring manufacturers to file with the board a true copy of each new, amended, modified, or different form of dealer/manufacture sales agreements has not been useful. Thus, the proposal to eliminate the requirement that such documents be filed would save time for both manufacturers and DHCD staff but would have no other substantive impact. According to DHCD, no dealers are known to object to the proposal to remove the requirement for manufacturers to provide continued parts and service support for a discontinued line of homes for at least five years from the date of such discontinuation.⁴ The agency points out that similar to site built and modular homes, when servicing an existing home outside of the warranty period, model specific parts are not needed. To the extent that manufacturers have been providing continued parts and service support to dealers for discontinued lines of homes for at least five years from the date of such discontinuance, the removal of this requirement may reduce their costs. The board does not believe that the requirement that advertisers maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement is useful. Thus, the repeal of this requirement would save advertisers the associated recordkeeping cost but would have no other substantive impact.

Businesses and Other Entities Affected. The proposed amendments would affect the 35 licensed manufacturers, 234 licensed dealers, 13 licensed brokers, and 373 licensed salespeople of manufactured homes. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁶ Since there is no apparent increase in net cost nor reduction in net benefit for any entity, no adverse impact is indicated.

Small Businesses⁷ Affected.⁸ The proposed amendments do not appear to adversely affect small businesses.

Localities⁹ Affected.¹⁰ The proposed amendments may disproportionately affect localities where manufactured homes are particularly prevalent. Costs for local governments would not be affected.

Projected Impact on Employment. The proposed amendments are unlikely to affect total employment.

Effects on the Use and Value of Private Property. The proposal to no longer require salespeople to have multiple licenses when they work for multiple employers would moderately reduce their costs and would commensurately increase their net worth. The proposal to no longer require manufacturers to provide continued parts and service support for discontinued lines of homes for at least five

years may reduce their costs and commensurately increase their value. The proposed amendments would not affect real estate development costs.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² Manufactured home is defined as a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein

³ Data source: DHCD.

⁴ The dealers on the board did not object and did not think other dealers would object.

⁵ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁶ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁷ Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁸ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁹ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Virginia Manufactured Housing Board concurs with the analysis and findings in the economic impact analysis prepared by the Department of Planning and Budget.

Regulations

Summary:

The proposed amendments (i) add new sections related to the licensing of manufacturers, dealers, brokers, and salespersons, which consolidate requirements that currently appear separately for each license type; (ii) remove a filing requirement for manufacturers related to dealer and manufacturer sales agreements; (iii) remove records retention requirements for advertisers; (iv) update provisions related to warranty claims; (v) update provisions regarding manufacturer-authorized alterations by a homeowner; (vi) remove unnecessary language related to the minimum information required to be furnished with a claim; (vii) remove requirements for a salesperson working for more than one company or locations with different owners to be licensed separately for each and pay a separate assessment for each license; and (viii) add the required form for consumer complaints.

13VAC6-20-17. License required.

A. Each manufacturer, dealer, broker, and salesperson shall apply to the board for a license. The license shall be displayed at the place of business in a conspicuous place accessible to the public. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed manufacturer, dealer, broker, and salesperson shall apply for license renewal annually by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. For licensing purposes, a manufacturer, dealer, broker, or salesperson operating more than one facility or location shall have each location treated as a separate entity and shall adhere to all requirements for manufactured licensing at each location, including posting a license at each location.

13VAC6-20-18. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department and may be submitted as designated in hard copy or by electronic means. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13VAC6-20-420 A.
2. Licensing fee required by 13VAC6-20-200 A.
3. Statement of compliance.
4. List of salespeople licenses in Virginia.

C. The Department of Housing and Community Development will mail a notice of renewal to the licensee at the last known

address of record. Licensees may submit renewal by mail or electronically. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the license may be substituted with the required fee. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13VAC6-20-200 A.
2. Statement of compliance.
3. Updated list of salespeople employed.

D. Any change in the form of ownership of a dealer or broker or any changes (i.e., deletions or additions) in the partners or principals of the dealer or broker shall be submitted to the board with an application and fee for a new license. If the new owner assumes the liabilities of the previous owner, then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner does not assume the liabilities of the previous owner.

The board shall be notified immediately by the dealer or broker of any change in the operating name of the dealer or broker. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the dealer or broker of any change in the location of the dealer or broker. The dealer or broker shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13VAC6-20-19. Statement of compliance.

The statement of compliance shall be signed by the person or responsible officer having full authority to commit the firm to the conditions of compliance and shall not be transferable. Violation of the statement of compliance is ground for suspension of the license.

Article 1

Manufacturers

13VAC6-20-20. License required; annual renewal ~~Multiple production line~~ licensing.

~~A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale, shall apply to the board for a license. The license shall be displayed at the place of business in a conspicuous place accessible to the public. The license shall be issued for a term of one year from the date of issuance.~~

~~B. Each licensed manufacturer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.~~

~~C. Should the department fail to receive a licensed manufacturer's renewal form and appropriate fee within 30~~

days of the license expiration date, the manufacturer shall be required to reinstate the license according to the terms and conditions of Article 8 (13VAC6-20-201 et seq.) of this part.

~~D. For licensing purposes, a manufacturer operating more than one manufacturing facility shall have each location treated as a separate entity and shall adhere to all requirements for manufacturer licensing at each location, including posting a license at each location. Multiple multiple production lines at one site shall be considered as a single facility for licensing purposes under the following conditions:~~

1. All production lines at that site are identified by the parent company with the same name, address, and plant number.
2. All production lines at that site are under the same general and production management.
3. All production lines at that site are identified by the same Federal Identification Number (FIN) for tax purposes.

13VAC6-20-30. Application for licensing; renewal. (Repealed.)

~~A. Application for license or renewal shall be on forms supplied by the department and may be submitted as designated in hard copy or by electronic means. All information required on the form shall be furnished by the applicant for the board's review.~~

~~B. Each application for original licensure shall be accompanied by the following:~~

1. Deposit in the Transaction Recovery Fund required by 13VAC6-20-420 A 1.
2. Licensing fee required by 13VAC6-20-200 A 1.
3. Copy of the manufacturer's homeowner and installation manuals.
4. Statement of compliance.
5. List of salespeople licensed in Virginia.

~~C. The Department of Housing and Community Development will mail a notice of renewal to the licensee at the last known address of record. Licensees may submit renewals by mail or electronically. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the licensee does not receive the notice of renewal, a copy of the license may be substituted with the required fee. Each application for renewal shall be accompanied by the following:~~

1. Licensing fee required by 13VAC6-20-200 A 2.
2. If revised, a copy of the revised homeowner and installation manuals.
3. Statement of compliance.
4. Updated list of salespeople employed.

13VAC6-20-40. Statement of Compliance. (Repealed.)

~~The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.~~

Article 2

Dealers

13VAC6-20-50. License required; annual renewal Dealers; Virginia Motor Vehicle Dealer Board certificate of registration required.

~~A. Any person located in or outside of the Commonwealth buying or selling or offering or displaying manufactured homes for sale in Virginia and meeting the definition of a dealer in 13VAC6-20-10 shall apply to the board for a license. The license shall be displayed in a conspicuous place accessible to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.~~

~~B. Each licensed dealer shall apply for license renewal annually by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.~~

~~C. Should the department fail to receive a licensed dealer's renewal form and appropriate fee within 30 days of the license expiration date, the dealer shall be required to reinstate the license according to the terms and conditions of Article 8 (13VAC6-20-201 et seq.) of this part.~~

~~D. For licensing purposes, a dealer operating more than one retail location shall have each location treated as a separate entity and shall adhere to all requirements for dealer licensing including posting a license at each location.~~

~~E. Each dealer licensed under this chapter shall also obtain a certificate of dealer registration from the Virginia Motor Vehicle Dealer Board (MVDB). The certificate of registration shall be renewed annually and shall be maintained in effect with the MVDB as long as the dealer is licensed under this chapter.~~

13VAC6-20-60. Application for licensing; renewal. (Repealed.)

~~A. Application for license or renewal shall be on forms supplied by the department and may be submitted as designated in hard copy or by electronic means. All information required on the form shall be furnished by the applicant for the board's review.~~

~~B. Each application for original licensure shall be accompanied by the following:~~

Regulations

1. Deposit in the Transaction Recovery Fund required by 13VAC6-20-420 A 2.
2. Licensing fee required by 13VAC6-20-200 A 3.
3. Statement of compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.
6. List of salespeople employed.
7. Name of the owner, principal, manager, agent, or other person designated as the holder of the dealer's license for the specific location and the names of other partners or principals in the dealership.

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. The Department of Housing and Community Development will mail a notice of renewal to the licensee at the last known address of record. Licensees may submit renewals by mail or electronically. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the licensee does not receive the notice of renewal, a copy of the license may be substituted with the required fee. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13VAC6-20-200 A 4.
2. Statement of compliance.
3. Notification of any significant changes to the office or the business sign.
4. Updated list of salespeople employed.
5. Any changes of officers or directors of the company or corporation.
6. A copy of the dealer's current certificate of registration from the Virginia Motor Vehicle Dealer Board.

D. Any change in the form of ownership of the dealer or any changes (deletions or additions) in the partners or principals of the dealer shall be submitted to the board with an application and fee for a new license. If the new owner assumes the liabilities of the previous owner, then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner does not assume the liabilities of the previous owner. The board shall be notified immediately by the dealer of any change in the operating name of the dealer. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the dealer of any change in the location of the dealer. The dealer shall pay a fee of \$50 for the change of location on the license but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13VAC6-20-70. Statement of Compliance. (Repealed.)

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the dealer to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

Article 3

Brokers

13VAC6-20-90. License required; annual renewal Brokers: Virginia Motor Vehicle Dealer Board certificate of registration required.

A. Any person located in or outside of the Commonwealth (i) buying or selling, negotiating the purchase or sale or exchange of, or leasing used manufactured homes and (ii) meeting the definition of broker in 13VAC6-20-10 shall apply to the board for a license. The license shall be displayed in a conspicuous place accessible to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed broker shall apply for license renewal annually by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Should the department fail to receive a licensed broker's renewal form and appropriate fee within 30 days of the license expiration date, the broker shall be required to reinstate the license according to the terms and conditions of Article 8 (13VAC6-20-201 et seq.) of this part.

D. For licensing purposes, a broker operating more than one business location shall have each location treated as a separate entity and shall adhere to all requirements for broker licensing, including posting a license, at each location.

E. Each broker licensed under this chapter shall also obtain a certificate of dealer registration from the Virginia Motor Vehicle Dealer Board (MVDB). The certificate of registration shall be renewed annually and shall be maintained in effect with the MVDB as long as the broker is licensed under this chapter.

13VAC6-20-100. Application for licensing; renewal. (Repealed.)

A. Application for license or renewal shall be on forms supplied by the department and may be submitted as designated in hard copy or by electronic means. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13VAC6-20-420 A 3.

2. Licensing fee required by 13VAC6-20-200 A 5.

3. Statement of compliance.

4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.

5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.

6. Name of the owner, principal, manager, agent or other person designated as the holder of the broker's license for the specific location and the names of the partners or principals in the broker's firm.

7. List of salespeople employed.

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. The Department of Housing and Community Development will mail a notice of renewal to the licensee at the last known address of record. Licensees may submit renewals by mail or electronically. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the licensee does not receive the notice of renewal, a copy of the license may be substituted with the required fee. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13VAC6-20-200 A 6.

2. Statement of compliance.

3. Notification of any significant changes to the office or the business sign.

4. Any changes of officers or directors of the company or corporation.

5. A copy of the broker's current certificate of registration from the Virginia Motor Vehicle Dealer Board.

6. Updated list of salespeople employed.

D. Any change in the form of ownership of the broker or any changes (deletions or additions) in the partners or principals of the broker shall be submitted to the board with an application and fee for a new license. If the new owner assumes the liabilities of the previous owner, then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner does not assume the liabilities of the previous owner.

The board shall be notified immediately by the broker of any change in the operating name of the broker. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the broker of any change in location of the broker. The broker shall

pay a fee of \$50 for the change of location on the license but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13VAC6-20-110. Statement of Compliance. (Repealed.)

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the broker to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

Article 4

Salespeople

13VAC6-20-130. License required; annual renewal Salespersons: license transfer.

A. Any person employed by a dealer, broker or manufacturer buying or selling or negotiating the purchase, sale or exchange of new or used manufactured homes and meeting the definition of a salesperson in 13VAC6-20-10 shall apply to the board for a license. The salesperson's license shall be displayed in the company's business office in a conspicuous place accessible to the public in public view. The license shall be issued for a term of one year from the date of issuance. A salesperson shall be authorized by the board to sell manufactured homes after applying for a license, accompanied by the required fees, but prior to receiving the license back from the board, and shall not be considered to be an "unlicensed salesperson" during such time.

B. Each licensed salesperson shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Should the department fail to receive a licensed salesperson's renewal form and appropriate fee within 30 days of the license expiration date, the salesperson shall be required to reinstate the license according to the terms and conditions of Article 8 (13VAC6-20-201 et seq.) of this part.

D. B. When employed by a dealer, broker, or manufacturer having more than one licensed retail location or business office, a licensed salesperson may transfer or be temporarily assigned from one location to the other as long as he the salesperson is working for the same company under the same ownership. Such transfer or assignment shall not require an additional license or Transaction Recovery Fund assessment. If a salesperson works for more than one company or at locations with different owners, he shall be licensed separately for each and pay a separate Transaction Recovery Fund assessment for each such license.

Regulations

13VAC6-20-140. ~~Application for licensing; renewal.~~ (Repealed.)

~~A. Application for license or renewal shall be on forms supplied by the department and may be submitted as designated in hard copy or by electronic means. All information required on the form shall be supplied by the applicant for the board's review.~~

~~B. Each application for original licensure shall be accompanied by the following:~~

- ~~1. Deposit in the Transaction Recovery Fund required by 13VAC6-20-420 A 4.~~
- ~~2. Licensing fee required by 13VAC6-20-200 A 7.~~
- ~~3. Statement of Compliance.~~

~~C. The Department of Housing and Community Development will mail a notice of renewal to the licensee at the last known address of record. Licensees may submit renewals by mail or electronically. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the licensee does not receive the notice of renewal, a copy of the license may be substituted with the required fee. Each application for renewal shall be accompanied by the following:~~

- ~~1. Licensing fee required by 13VAC6-20-200 A 8.~~
- ~~2. Statement of Compliance:~~
 - ~~Article 5~~
 - ~~Special License~~
 - ~~Article 6~~
 - ~~Violations and Hearings~~
 - ~~Article 7~~
 - ~~License Fees~~
 - ~~Article 8~~
 - ~~Reinstatement~~

13VAC6-20-201. Reinstatement required.

Should the board fail to receive a license holder's renewal form and appropriate fee within 30 days of the license expiration date, or if the license has been revoked or not renewed by the board, the applicant shall be required to reinstate the license. Applicants for reinstatement of a ~~manufacturer's~~ license shall continue to meet all the qualifications for that licensure set forth in ~~Article 1 (13VAC6-20-20 et seq.)~~ of this part. ~~Applicants for reinstatement of a dealer's license shall continue to meet all the qualifications for licensure set forth in Article 2 (13VAC6-20-50 et seq.) of this part. Applicants for reinstatement of a broker's license shall continue to meet all qualifications for licensure set forth in Article 3 (13VAC6-20-90 et seq.) of this part. Applicants for reinstatement of a salesperson's license shall continue to meet all qualifications for licensure set forth in Article 4 (13VAC6-20-130 et seq.) of this part.~~

13VAC6-20-210. ~~Filing of dealer~~ Dealer or manufacturer sales agreements; contents.

~~A. Each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer/manufacturer sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. The department shall review the form for terms inconsistent with the requirements of this chapter. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board.~~

~~B. A.~~ The sales agreement between the manufacturer and the dealer shall not include terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

~~C. B.~~ The manufacturer shall include in any sales agreement with a dealer the following language or words to that effect:

"If any provision herein contravenes the laws or regulations of Virginia, or denies access to the procedures, hearings, or remedies provided by the laws or regulations of Virginia, such provision shall be deemed to be modified to conform to those laws and regulations, and all other terms and provisions of the agreement shall remain in full force."

13VAC6-20-230. Grant, transfer, succession to, and cancellation of dealer or manufacturer sales agreements; delivery.

A. Prior to granting an additional dealer or manufacturer sales agreement for a particular line of manufactured home in a relevant market area in which ~~a dealer or~~ dealers are already located, a manufacturer shall notify, in writing, all other dealers in the line of homes in that relevant market area. Any dealer in the same line of homes in the relevant marketing area may request a conference or hearing before the board within 30 days of receipt of the manufacturer's notice of intention to establish the additional dealer or manufacturer sales agreement. The additional sales agreement may be established at the proposed site if, after the conference or hearing, the board determines that there is reasonable evidence that after the grant of the new sales agreement, the market will support all of the dealers in that line of homes in the relevant market area.

1. Establishing a dealer or manufacturer sales agreement in a relevant market area to replace a dealer that has ceased operation shall constitute the establishment of a new dealer or manufacturer sales agreement subject to the terms of this section.

EXCEPTIONS: 1. 2. Exceptions to requirements for establishing a dealer or manufacturer as provided in this section:

- a. The relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 25 miles from any other dealer in the same line of homes.

2. b. The relocation of an existing dealer within that dealer's relevant market area if the relocation site will be further away from all other dealers of the same line of homes in that relevant market area than the relocating dealer's current site.

3. c. The relocation of an existing dealer within two miles of that dealer's current site.

B. A dealer shall give written notice to the manufacturer at least 90 days prior to the sale, assignment, or transfer of the dealer or manufacturer sales agreement. The notice shall include the identity, financial ability, and qualifications of the proposed transferee. The sale or transfer of the sales agreement or business shall not involve a relocation of the sales agreement without the manufacturer's consent. The manufacturer shall not prevent or refuse to approve the sale or transfer of the ownership of a dealer by (i) the sale of the business, stock transfer, or otherwise; or (ii) the sale, transfer, or assignment of a dealer or manufacturer sales agreement; or (iii) a change in the executive management or principal operator of the dealership, unless the manufacturer provides written notice to the dealer of ~~its~~ the manufacturer's objections and the reasons therefor at least 30 days prior to the proposed effective date of the sale, transfer, assignment, or change. The dealer shall have 30 days from receipt of the manufacturer's objection to file a written request for a conference or hearing by the board. At the conference or hearing, the manufacturer and the dealer shall be allowed to present ~~their~~ reasons for and objections to the sale or transfer. The board shall determine whether the manufacturer's objection to the sale, assignment, transfer, or change of the dealership is reasonable ~~or unreasonable~~. The sale, transfer, assignment, or change of the dealer or manufacturer sales agreement shall be allowed if the board determines the objection is unreasonable.

C. A dealer shall be allowed to designate a family member ~~of his family~~ as a successor to the dealer or manufacturer sales agreement in the event of the death or incapacity of the dealer by providing written notice to the manufacturer of the identity, financial ability, and qualifications of the member of the family designated as successor. The manufacturer shall have the right to prevent or refuse to honor the succession to the sales agreement by notifying the family member in writing of ~~its~~ the manufacturer's objections and of the person's right to request a conference or hearing on the matter before the board. The dealer shall have 30 days from receipt of the manufacturer's notice to file a written request to the board for a conference or hearing. At the conference or hearing, the dealer and manufacturer shall be allowed to present ~~their~~ reasons for and objections to the succession. The board shall determine if the manufacturer's objection to the succession is reasonable. The designated succession shall be allowed if the board determines the manufacturer's objection is unreasonable.

D. A dealer or manufacturer sales agreement may be ~~cancelled~~ canceled or terminated at any time by mutual consent.

E. A manufacturer may terminate, cancel, or refuse to renew the sales agreement of a dealer with good cause. At least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the sales agreement the manufacturer shall give written notice of ~~his~~ the manufacturer's intentions to the dealer and the board, setting forth the specific grounds for the action. Within the 60-day period, the dealer may request, in writing, a conference or hearing before the board to determine if there is good cause for the termination, cancellation, or nonrenewal of the sales agreement. When the dealer has requested a board conference or hearing, the sales agreement in question shall continue in effect until the board issues a finding of good cause for the action.

If a manufacturer neither advises a dealer that it does not intend to renew a sales agreement nor takes any action to renew a sales agreement beyond its expiration date, the sales agreement in question shall continue in effect on the terms last agreed to by the parties.

A manufacturer may provide written notice of termination, cancellation, or nonrenewal to a dealer not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal when the grounds for such action are any of the following:

1. Insolvency of the dealer or filing of any petition by or against the dealer; under any bankruptcy or receivership law; leading to liquidation or ~~which that~~ which is intended to lead to liquidation of the dealer's business.
2. Failure of the dealer to conduct its customary sales and service operations during ~~its~~ the dealer's established business hours for 10 consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the dealer.
3. Revocation of any license ~~which that~~ which the dealer is required to have to operate a dealership.
4. Conviction of the dealer or any principal of the dealer of a felony; during the term of the sales agreement.

F. The change or discontinuance of a marketing or distribution system of a particular line of manufactured homes by a manufacturer, while the name identification of the home is continued in substantial form by the same or different manufacturer, may be considered to be a sales agreement termination, cancellation, or nonrenewal. ~~A manufacturer shall provide continued parts and service support to a dealer for a discontinued line of homes for at least five years from the date of such discontinuance.~~

13VAC6-20-280. Records retention. (Repealed.)

~~Advertisers shall maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement. For the purposes of this section, the expiration date of the advertisement shall be the last date the~~

Regulations

~~advertisement runs or the expiration date of the advertised sale, whichever is later.~~

13VAC6-20-310. Warranties; provisions.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale shall issue with each new home a warranty to the buyer, in writing, setting forth the following terms:

1. That all structural elements; plumbing systems; heating, cooling (if any), and fuel burning systems; electrical systems; and any other components included by the manufacturer are manufactured and installed free from defect.
2. That the manufacturer shall take appropriate corrective action at the site of the manufactured home, except for components ~~which that~~ can be removed for service without undue inconvenience to the buyer; in instances of defects ~~which that~~ become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the manufacturer at the manufacturer's business address.
3. That the manufacturer shall take such actions deemed necessary as ordered by the board under this chapter.

B. Each dealer located in or outside of the Commonwealth selling or delivering manufactured homes to buyers in the Commonwealth shall issue with each manufactured home a warranty to the buyer, in writing, setting forth the following terms:

- ~~1. That any modifications or alterations made to the home by the dealer or authorized by the dealer are free from defects. Alterations or modifications made by the dealer, without written permission of the manufacturer, shall relieve the manufacturer of the warranty requirements of subsection A of this section for the item altered or modified and any damage resulting from the alteration or modification.~~
- ~~2. 1.~~ That set-up operations performed by the dealer or by persons under contract to the dealer on the manufactured home are completed in compliance with the applicable Code requirements for the installation of manufactured homes under 13VAC5-95.
- ~~3. 2.~~ That during the course of transportation and set-up operations performed by the dealer or by persons under contract to the dealer, any defects ~~which that~~ may occur with the manufactured home will be corrected properly.
- ~~4. 3.~~ That the dealer shall take appropriate corrective action at the site of the manufactured home, except for components ~~which that~~ can be removed for service without undue inconvenience to the buyer, if such defects become evident after the date of delivery of the home to the buyer, provided

the buyer gives notice of the defects to the dealer at the dealer's place of business.

~~5. 4.~~ That the dealer shall take such actions deemed necessary as ordered by the board under this chapter.

C. Any warranties generally offered by suppliers in the ordinary sale of ~~their~~ products to consumers shall be extended to buyers of manufactured homes. The warranty by the manufacturer of the home shall remain in effect ~~not~~ notwithstanding the existence of the ~~suppliers'~~ supplier warranty.

D. The regulant's warranty shall be in addition to, and not in detraction of, all other rights and privileges ~~which that~~ the buyer may have under any other law or regulation. The regulant shall not require the buyer to waive ~~his~~ the buyer's rights under this part, and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

13VAC6-20-330. Presenting warranty claims.

To invoke a regulant's warranty under 13VAC6-20-310, the buyer shall notify the regulant within a reasonable time after discovering the defect and not later than 90 days after the expiration of the stated term of the warranty. The regulant shall make a record of the name and address of each claimant and the date, substance, and disposition of each claim about the defect. ~~The regulant may request that a warranty claim be made in writing; however, the regulant shall record any claim received as noted above and shall not delay service pending receipt of the written claim.~~

13VAC6-20-370. Alterations; by dealer or by owner.

A. ~~Unless authorized by this chapter or by the manufacturer, a dealer shall not make any alterations or modifications to a manufactured home after shipment from the manufacturer's facility.~~ If a dealer performs an unauthorized alteration or modification in or to a manufactured home, the dealer ~~then~~ shall bear primary warranty responsibility for the altered or modified item ~~or items~~. If the manufacturer remedies or is required by the board to remedy any warranty claim on the altered or modified item ~~or items~~, then that manufacturer shall be entitled to recover damages in the amount of ~~his~~ costs, including ~~attorney's~~ attorney fees, from the dealer responsible for the alteration or modification.

B. Unless authorized by the manufacturer, the owner or person ~~or persons~~ working for the owner shall ~~not~~ no make alterations or modifications to a manufactured home after shipment from the manufacturer's facility. Any unauthorized alteration or modification made by the owner or person ~~or persons~~ working for the owner shall relieve the manufacturer of the responsibility to remedy any defects caused by such alteration or modification. All manufacturers shall display clearly and conspicuously on the face of ~~their~~ the manufacturer's warranty to the buyer a statement explaining that the owner shall be responsible for remedying any defects

caused by unauthorized alterations or modifications done by the owner or person ~~or persons~~ working for the owner. The ~~statement shall also include a warning specifying any alterations or modifications which should be performed only by qualified personnel in order to preserve their warranty protection.~~

13VAC6-20-380. ~~Qualifications of personnel performing alterations. (Repealed.)~~

~~All persons responsible for performing alterations under this part shall be deemed "qualified personnel" only when approved or certified by the manufacturer of the home.~~

13VAC6-20-430. Filing claims; investigations; conference or hearing on claim.

A. Any person who suffers any loss or damage by an act of a regulant that constitutes a violation of ~~this law or this chapter or Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia~~ shall have the right to file a claim for recovery from the fund. The department shall provide forms for filing claims. ~~As a minimum, the following information shall be furnished with the claim:~~

- ~~1. The names and addresses of the regulants involved in the claim.~~
- ~~2. The identification of the home including the serial number, HUD label number or numbers, and model designations.~~
- ~~3. A complete explanation of the issues or actions which constitute the basis for the claim, along with copies of pertinent documents.~~
- ~~4. The name, address and telephone number of the claimant and the location of the home if different from the claimant's address.~~

B. Upon receipt of a claim, the board shall review the claim and may conduct, or cause to be conducted, an on-site inspection of the home. All regulants involved in a claim shall be notified of any on-site inspections by the board or the department under this chapter and shall be requested to have a representative present during the inspection. The person ~~or persons~~ conducting the inspection for the board or the department shall prepare a written report of the findings of the inspection, citing any defects or violations of the Code of Virginia or this chapter with a reference to the specific section of the Code of Virginia or regulation ~~which that~~ serves as the basis for the violation, and identifying the regulant responsible for the defect or violation. Copies of this report shall be provided to the regulants, the claimant, and the board.

C. The board shall hold a conference or hearing on a claim for damages. The board, or the department acting on the board's behalf, shall send written notice of the conference or hearing to all involved regulants, stating the purpose of the conference or hearing and the time and place of the conference

or hearing. The notice shall be sent to the regulant ~~or regulants~~ at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant ~~or regulants~~, as shown on the license or other record or information in possession of the board. The conference or hearing shall be conducted by the board according to the applicable provisions of the Administrative Process Act (~~§ 2.2-4000 et seq. of the Code of Virginia~~) and shall be open to the public. The regulant ~~or regulants~~ shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on ~~his~~ the regulant's behalf.

D. After the conference or hearing, if the board finds that the person has suffered a loss or damages due to the acts of a regulant that constitute a violation of this chapter, the board shall determine the amount of damages to be awarded to the claimant. The amount of damages awarded by the board shall be limited to actual compensatory damages and shall not include ~~attorney's~~ attorney fees for representation before the board. The board shall order the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. The board's written order shall be sent by certified mail to the regulant responsible for paying the awarded amount. Within 30 days of receipt of the board's decision, the responsible regulant shall pay the awarded amount to the claimant, unless an appeal is pending.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (13VAC6-20)

Complete license registration application forms for broker, dealer, manufacturer, salesperson, and special licensing online at <https://dmz1.dhcd.virginia.gov/BFR/Main/LogOn.aspx>, <https://www.dhcd.virginia.gov/sites/default/files/Docx/manufactured-housing/file-complaint/manufactured-housing-complaint-form.pdf>.

[Manufactured Home Consumer Complaint Form \(rev. 2/2014\)](#)

VA.R. Doc. No. R24-7851; Filed September 2, 2025, 5:08 p.m.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Proposed Regulation

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is claiming an exemption from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4 of the Code of Virginia.

Regulations

Title of Regulation: **13VAC10-180. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (amending 13VAC10-180-60).**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Information:

October 13, 2025 - 2:30 p.m. - Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220.

Public Comment Deadline: October 13, 2025.

Agency Contact: Fred Bryant, Chief Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5758, or email fred.bryant@virginiahousing.com.

Summary:

The proposed amendments delete certain sponsor characteristic point incentives.

13VAC10-180-60. Review and selection of applications; reservation of credits.

A. The executive director may divide the amount of credits into separate pools and each separate pool may be further divided into separate tiers. The division of such pools and tiers may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors the executive director deems appropriate to best meet the housing needs of the Commonwealth.

B. An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) that is authorized to do business in Virginia and is determined by the executive director, on the basis of such relevant factors as the executive director shall consider appropriate, to be substantially based or active in the community of the development and is to materially participate (regular, continuous, and substantial involvement as determined by the executive director) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. a. The "qualified nonprofit organization" described in subdivision 1 of this subsection is to own (directly or through a partnership), prior to the reservation of credits to the buildings or development, all of the general partnership interests of the ownership entity;

b. The executive director of the authority shall have determined that such qualified nonprofit organization is

not affiliated with or controlled by a for-profit organization;

c. The executive director of the authority shall have determined that the qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools as defined in subsection D of this section established by the executive director; and

d. The executive director of the authority shall have determined that no staff member, officer, or member of the board of directors of such qualified nonprofit organization will materially participate, directly or indirectly, in the proposed development as a for-profit entity.

3. In making the determinations required by subdivisions 1 and 2 b, 2 c, and 2 d of this subsection, the executive director may apply such factors as the executive director deems relevant, including:

a. The past experience and anticipated future activities of the qualified nonprofit organization;

b. The sources and manner of funding of the qualified nonprofit organization;

c. The date of formation and expected life of the qualified nonprofit organization;

d. The number of paid staff members and volunteers of the qualified nonprofit organization;

e. The nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development;

f. The relationship of the staff, directors, or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis; and

g. The proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities involved in the proposed development on a for-profit basis.

The executive director may include in the application of the factors described in this subdivision 3 any other nonprofit organizations that, in the executive director's determination, are related (by shared directors, staff, or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the requirements of this subsection, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

C. The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the requirements of this section have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the requirements of subsection B of this section.

D. The executive director may establish such pools (nonprofit pools) of credits as the executive director may deem appropriate to satisfy the requirements of this subsection. If any such nonprofit pools are so established, the executive director may rank the applications in each pool and reserve credits to such applications before ranking applications and reserving credits in other pools, and any such applications in such nonprofit pools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible in each pool described in this subsection (because there are not enough credits then available in such nonprofit pools to make such reservations) shall be assigned to such other pool as shall be appropriate; provided, however, that if credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as the executive director shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, rank the applications for those nonprofit pools, and reserve credits to such applications in accordance with the IRC and this chapter. In the event that during any round of application review and ranking, the amount of credits reserved within such nonprofit pools is less than the total amount of credits made available in each nonprofit pool, the executive director may:

1. Leave such unreserved credits in such nonprofit pools for reservation and allocation in any subsequent rounds;
2. Redistribute, to the extent permissible under the IRC, such unreserved credits to such other pools for which the executive director shall designate reservations in the full amount permissible under this section. Applications redistributed to other pools under this subdivision shall be referred to as "excess qualified applications"; or
3. Carry over such unreserved credits to the next succeeding calendar year for the inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year.

No reservation of credits shall be made from any nonprofit pools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in

accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or any combination of pools may receive a reservation or allocation of annual credits in an amount greater than \$950,000 unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits.

Applicants using Hope VI funds from U.S. Department of Housing and Urban Development (HUD) in connection with the proposed development shall not be eligible to receive a reservation of credits from any nonprofit pools.

E. The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness. Written evidence satisfactory to the authority of unconditional approval by local authorities of the plan of development or site plan for the proposed development or that such approval is not required. (10 points)
2. Housing needs characteristics.
 - a. Submission of the form prescribed by the authority with any required attachments, providing such information necessary for the authority to send a letter addressed to the current chief executive officer (or the equivalent) of the locality in which the proposed development is located, soliciting input on the proposed development from the locality within the deadlines established by the executive director. Any principal intending to provide more than five such submissions for one or more total proposed developments must first schedule a meeting with authority staff, and authority staff may, for good cause to promote the goals and interests of the Commonwealth in the federal low-income housing tax credit program, request evidence of site control as a prerequisite to the authority sending the letter prescribed by this subdivision 2 for each respective proposed development. (minus 50 points for failure to make timely submission)
 - b. A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development is not consistent with current zoning or other applicable land use regulations. Any such letter must also be accompanied by a legal opinion of the locality's attorney opining that the locality's opposition to the proposed development does not have a discriminatory intent or a discriminatory effect (as defined in 24 CFR 100.500(a)) that is not supported by a legally sufficient justification (as defined in 24 CFR 100.500(b)) in violation of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended) and the HUD implementing regulations. (minus 25 points)

Regulations

c. Any proposed development that is to be located as follows:

(1) In a qualified census tract or federal targeted area, both as defined in the IRC, deemed under § 36-55.30:2 of the Code of Virginia to be designated as a revitalization area without adoption of a resolution (10 points);

(2) In any redevelopment area, conservation area, or rehabilitation area created or designated by the city or county pursuant to Chapter 1 (§ 36-1 et seq.) of Title 36 of the Code of Virginia and deemed under § 36-55.30:2 of the Code of Virginia to be designated as a revitalization area without adoption of a further resolution (10 points);

(3) In a revitalization area designated by resolution adopted pursuant to the terms of § 36-55.30:2 of the Code of Virginia (15 points);

(4) In a local housing rehabilitation zone created by an ordinance passed by the city, county, or town and deemed to meet the requirements of § 36-55.30:2 of the Code of Virginia pursuant to § 36-55.64 G of the Code of Virginia (15 points);

(5) In an opportunity zone designated by the Commonwealth pursuant to the Federal Tax Cuts and Jobs Act of 2017 (PL 115-97), and having a binding commitment of funding acceptable to the executive director pursuant to requirements as set forth on the application form, instructions, or other communication available to the public (15 points);

(6) In a locality that confirms, on a form prescribed by the authority, that the development as proposed to be constructed or rehabilitated will utilize new or existing housing as part of a community revitalization plan (15 points); or

(7) On land owned by federally recognized or Virginia-recognized Tribal Nations located within the present-day external boundaries of the Commonwealth (15 points). If the development is located in more than one such area, only the highest applicable points will be awarded, that is, points in this subdivision E 2 c are not cumulative.

d. Commitment by the applicant for any development without section 8 project-based assistance to give leasing preference to individuals and families (i) on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant or (ii) on section 8 (as defined in 13VAC10-180-90) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (5 points)

e. Any (i) funding source, as evidenced by a binding commitment or letter of intent, that is used to reduce the

credit request; (ii) commitment to donate land or buildings or tap fee waivers from the local government; or (iii) commitment to donate land, including a below market-rate land lease, from an entity that is not a principal in the applicant (the donor being the grantee of a right of first refusal or purchase option with no ownership interest in the applicant shall not make the donor a principal in the applicant). Loans must be below market-rate (the one-year London Interbank Offered Rate (LIBOR) rate at the time of commitment) or cash-flow only to be eligible for points. Financing from the authority and market rate permanent financing sources are not eligible. (The amount of such funding, dollar value of local support, or value of donated land (including a below market rate land lease) will be determined by the executive director and divided by the total development cost. The applicant receives two points for each percentage point up to a maximum of 60 points.) The authority will confirm receipt of such subsidized funding prior to the issuance of IRS Form 8609.

f. Any development receiving new project-based subsidy from HUD or Rural Development. For each project-based voucher up to a maximum of 40 points when competing in either the New Construction or Northern Virginia pool only (5 points); provided, however, that any points awarded under this subdivision 2 f will reduce, in equal measure, the maximum 60 points awarded within subdivision 2 e of this subsection.

g. Any development receiving a real estate tax abatement on the increase in the value of the development. (5 points)

h. Any development subject to (i) HUD's section 8 or section 236 program or (ii) Rural Development's 515 program at the time of application (20 points), unless the applicant is or has any common interests with the current owner, directly or indirectly. The application will only qualify for these points if the applicant waives all rights to developer's fee on acquisition and any other fees associated with the acquisition of the development, unless permitted by the executive director for good cause.

i. Any proposed elderly or family development located in a census tract that has less than a 3.0% poverty rate based upon Census Bureau data (30 points); less than a 10% poverty rate based upon Census Bureau data (25 points); or less than a 12% poverty rate based upon Census Bureau data. (20 points)

j. Any proposed development listed in the top 25 developments identified by Rural Development as high priority for rehabilitation at the time the application is submitted to the authority. (15 points)

k. Any proposed new construction development, including adaptive reuse and rehabilitation that creates additional rental space, that is located in a pool identified by the authority as a pool with an increasing rent-burdened population, depending upon the portion of the development that is additional rental space, in all pools

except the at-large pool, 0 points in the at-large pool. (up to 20 points)

1. Any proposed development located within an area identified by the executive director as possessing either medium or high levels of economic development activity. In determining such areas, the executive director will evaluate economic data, such as per capita job creation data from the Virginia Economic Development Partnership, and annually publish a guidance document available to the public establishing such areas. (5 points)

3. Development characteristics.

a. Evidence satisfactory to the authority documenting the quality of the proposed development's amenities as determined by the following:

(1) The following points are available for any application:

(a) If a community or meeting room with a minimum of 749 square feet is provided. (5 points) Community rooms receiving points under this subdivision 3 a (1) (a) may not be used for commercial purposes. Provided that the cost of the community room is not included in eligible basis, the owner may conduct, or contract with a nonprofit provider to conduct, programs or classes for tenants and members of the community in the community room, so long as (i) tenants compose at least one-third of participants, with first preference given to tenants above the one-third minimum; (ii) no program or class may be offered more than five days per week; (iii) no individual program or class may last more than eight hours per day, and all programs and class sessions may not last more than 10 hours per day in the aggregate; (iv) cost of attendance of the program or class must be below market rate with no profit from the operation of the class or program being generated for the owner (owner may also collect an amount for reimbursement of supplies and clean-up costs); (v) the community room must be available for use by tenants when programs and classes are not offered, subject to reasonable "quiet hours" established by owner; and (vi) any owner offering programs or classes must provide an annual certification to the authority that it is in compliance with such requirements, with failure to comply with these requirements resulting in a 10-point penalty for three years from the date of such noncompliance for principals in the owner.

(b) If the exterior walls are constructed using brick or other similar low-maintenance material approved by the authority as indicated on the application form, instructions, or other communication available to the public covering up to 50% of the exterior walls of the development. (20 points times the percentage of exterior walls covered by brick)

If the exterior walls are constructed using fiber cement board covering up to 50% of the exterior walls. (20 points

times the percentage of exterior walls covered by fiber cement board)

Points for brick and fiber cement board are independent and can both be awarded.

For purposes of making such coverage calculation, the triangular gable end area, doors, windows, knee walls, columns, retaining walls, and any features that are not a part of the façade are excluded from the denominator. Community buildings are included in the foregoing coverage calculations.

(c) If the development is built in accordance with development design requirements established by the Virginia Department of Behavioral Health and Developmental Services. (10 points)

(d) If points are not awarded pursuant to subdivision 3 f of this section for optional certification, if each bathroom contains only WaterSense labeled toilets, faucets, and showerheads. (3 points)

(e) If each unit is provided with free individual high-speed Internet access. (15 points)

(f) If each full bathroom's bath fans are wired to the primary bathroom light with a delayed timer, or continuous exhaust by ERV/DOAS. (3 points) If each full bathroom's bath fans are equipped with a humidistat. (3 points)

(g) If all cooking surfaces are equipped with fire suppression features that meet the authority's requirements as indicated on the application form, instructions, or other communication available to the public. (2 points)

(h) For rehabilitations, if each unit is equipped with dedicated space, drain, and electrical hook-ups for permanently installed dehumidification systems (2 points). For rehabilitations and new construction, providing permanently installed dehumidification systems in each unit. (5 points)

(i) If each interior door is solid core. (3 points)

(j) If each unit has at least one USB charging port in the kitchen, living room, and all bedrooms. (1 point)

(k) If each kitchen has LED lighting in all fixtures that meets the authority's minimum design and construction standards (2 points)

(l) For new construction only, if each unit has a balcony or patio with a minimum depth of five feet clear from face of building and a size of at least 30 square feet. (4 points)

(m) If construction or rehabilitation of the development includes installation of a renewable energy electric system in accordance with the manufacturer's specifications and all applicable provisions of the National Electrical Code. Qualifying installations must have either been performed by a licensed electrician or have passed a final inspection performed by a licensed electrician. (10 points)

Regulations

(n) For rehabilitations, if each unit is provided with the necessary infrastructure for high-speed Internet or broadband service. (5 points)

(2) The following points are available to applications electing to serve elderly tenants:

(a) If all cooking ranges have front controls. (1 point)

(b) If all bathrooms have an independent or supplemental heat source. (1 point)

(c) If all entrance doors to each unit have two eye viewers, one at 42 inches and the other at standard height. (1 point)

(d) If each unit has a shelf or ledge outside the primary entry door in interior hallway. (2 points)

(3) The following points are available to all qualified applications:

a. If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits. (5 points)

b. Any development in which 10% of the units (i) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act and (ii) are actively marketed to persons with disabilities as defined in the Fair Housing Act in accordance with a plan submitted as part of the application for credits. (20 points)

c. Any development located within one-half mile of an existing commuter rail, light rail, or subway station or one-quarter mile of one or more public bus stops either existing or to be built in accordance with existing proffers. (10 points, unless the development is located within the geographical area established by the executive director for a pool of credits for Northern Virginia or Tidewater Metropolitan Statistical Area (MSA), in which case, the development will receive 20 points if the development is ranked against other developments in such Northern Virginia or Tidewater MSA pool, 10 points if the development is ranked against other developments in any other pool of credits established by the executive director)

d. Each development must meet the following baseline energy performance standard applicable to the development's construction category. For new construction, the development must meet all requirements for EPA Energy Star certification. For rehabilitation, the proposed renovation of the development must result in at least a 30% post-rehabilitation decrease on the Home Energy Rating System Index (HERS Index) or score an 80 or lower on the HERS Index. For adaptive reuse, the proposed development must score a 95 or lower on the HERS Index. For mixed construction types, the applicable standard will apply to the development's various construction categories. The development's score on the

HERS Index must be verified by a third-party, independent, nonaffiliated, certified Residential Energy Services Network (RESNET) home energy rater.

(1) Any development for which the applicant agrees to obtain (i) EarthCraft Gold or higher certification; (ii) U.S. Green Building Council LEED green-building certification; (iii) National Green Building Standard Certification of Silver or higher; or (iv) meet Enterprise Green Communities Criteria prior to the issuance of an IRS Form 8609 with the proposed development's architect certifying in the application that the development's design will meet the criteria for such certification, provided that the proposed development's RESNET rater is registered with a provider on the authority's approved RESNET provider list. (10 points, points in this subdivision d (1) are not cumulative)

(2) Additionally, points on future applications will be awarded to an applicant having a principal that is also a principal in a tax credit development in the Commonwealth meeting (i) the Zero Energy Ready Home Requirements as promulgated by the U.S. Department of Energy (DOE) and as evidenced by a DOE certificate or (ii) the Passive House Institute's Passive House standards as evidenced by a certificate from an accredited Passive House certifier. (10 points, points in this subdivision d (2) are cumulative)

The executive director may, if needed, designate a proposed development as requiring an increase in credit in order to be financially feasible and such development shall be treated as if in a difficult development area as provided in the IRC for any applicant receiving an additional 10 points under this subdivision d, provided, however, that any resulting increase in such development's eligible basis shall be limited to 10% of the development's eligible basis. Provided, however, the authority may remove such increase in the development's eligible basis if the authority determines that the development is financially feasible without such increase in basis.

e. If units are constructed to include the authority's universal design features, provided that the proposed development's architect is on the authority's list of universal design certified architects. (15 points if all the units in an elderly development meet this requirement; 15 points multiplied by the percentage of units meeting this requirement for nonelderly developments)

f. Any development in which the applicant proposes to produce less than 100 low-income housing units. (20 points for producing 50 low-income housing units or less, minus 0.4 points for each additional low-income housing unit produced down to 0 points for any development that produces 100 or more low-income housing units.)

g. Any applicant for a development that, pursuant to a common plan of development, is part of a larger development located on the same or contiguous sites,

financed in part by tax-exempt bonds. Combination developments seeking both 9.0% and 4.0% credits must clearly be presented as two separately financed deals, including separate equity pricing that would support each respective deal in the event the other were no longer present. While deals are required to be on the same or a contiguous site they must be clearly identifiable as separate. The units financed by tax-exempt bonds may not be interspersed throughout the development. Additionally, if co-located within the same building footprint, the property must identify separate entrances. All applicants seeking points in this category must arrange a meeting with authority staff at the authority's offices prior to the deadline for submission of the application in order to review both the 9.0% and the tax-exempt bond financed portion of the project. Any applicant failing to meet with authority staff in advance of applying will not be allowed to compete in the current competitive round as a combination development. (10 points if the aggregate number of units within the larger combined development totals more than 100 but fewer than 150 units and 30% or more of those units will be funded by tax-exempt bonds; 15 points if the aggregate number of units within the larger combined development totals at least 150 units and 30% of those units will be funded by tax-exempt bonds)

4. Tenant population characteristics. Commitment by the applicant to give a leasing preference to individuals and families with children in developments that will have no more than 20% of its units with one bedroom or less. (15 points; plus 0.75 points for each percent of the low-income units in the development with three or more bedrooms up to an additional 15 points for a total of no more than 30 points)

5. Sponsor characteristics.

a. ~~Points shall be awarded on a sliding scale to applicants that enter into at least one contract for services provided by a business certified as women owned, minority owned, or service disabled veteran owned through the Commonwealth of Virginia's Small, Women-owned, and Minority owned Business (SWaM) Certification Program; provided, however, that no points will be awarded for entering into contracts where a spousal relationship exists between any principal of the applicant and any principal of the service provider. The following services and roles qualify for points under this subdivision 5 a: (i) consulting services to complete the LIHTC application, (ii) ongoing development services through the placed in service date, (iii) general contractor, (iv) architect, (v) property manager, (vi) accounting services, or (vii) legal services. An applicant seeking points in this subdivision 5 a must provide in its application a certification, in a form to be developed by the executive director, certifying that a contract for services has been executed between the applicant and the service provider, describing the scope of the services provided or to be~~

~~provided, and certifying that no spousal relationship exists between any principal of the applicant and any principal of the service provider. The application must also include a copy of the service provider's certification from the Commonwealth of Virginia's SWaM Certification Program. (5 points for entering into one such contract; 7 points for entering into two such contracts; 10 points for entering into three or more such contracts)~~

b. ~~Applicants with at least one principal having an ownership interest of at least 25% in the controlling general partner or managing member for the proposed development who is a socially disadvantaged individual. An applicant seeking points in this subdivision 5 b must provide in its application a certification in a form to be developed by the executive director, certifying that no spousal relationship exists between the socially disadvantaged principal and any other principal having an ownership interest in the development who is not also a socially disadvantaged principal. (30 points)~~

c. ~~Applicants with at least one nonprofit principal that (i) either demonstrates that 51% or more of its board membership is held by socially disadvantaged individuals or demonstrates that its most senior full-time executive officer is a socially disadvantaged individual; (ii) has an express business purpose of serving socially or economically disadvantaged populations or both; and (iii) certifies that no spousal relationship exists between any executive officer or board member identified for the purpose of satisfying the requirements of this subsection and any other principal of the applicant who is not also a socially disadvantaged individual. (30 points) Applicants receiving points under subdivision 5 b of this subsection are ineligible for points in this subdivision 5 c.~~

d. ~~For the purposes of subdivisions 5 b and 5 c of this subsection, socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control. There is a rebuttable presumption that the following individuals are socially disadvantaged: Black Americans, Hispanic Americans, Native Americans, and Asian Americans and Pacific Islanders. This provision shall be interpreted in accordance with 13 CFR 124.103.~~

e. ~~a. Points shall be awarded on a sliding scale to applicants that enter into at least one contract for services provided by (i) a veteran-owned small business (VOSB) as certified by the U.S. Department of Veterans Affairs, Office of Small and Disadvantaged Business Utilization, or the U.S. Small Business Administration, or (ii) a business certified as service-disabled veteran-owned through the Commonwealth of Virginia's SWaM Certification Program; provided, however, that no points will be awarded for entering into contracts where a spousal~~

Regulations

relationship exists between any principal of the applicant and any principal of the service provider. The following services and roles qualify for points under this subdivision 5 e a: (a) consulting services to complete the LIHTC application, (b) ongoing development services through the placed-in-service date, (c) general contractor, (d) architect, (e) property manager, (f) accounting services, or (g) legal services. An applicant seeking points in this subdivision 5 e a must provide in its application a certification, in a form to be developed by the executive director, certifying that a contract for services has been executed between the applicant and the service provider, describing the scope of the services provided or to be provided, and certifying that no spousal relationship exists between any principal of the applicant and any principal of the service provider. The application must also include a copy of the service provider's certification issued by the applicable certifying entity listed within this subdivision 5 e a. (5 points for entering into one such contract; 7 points for entering into two such contracts; 10 points for entering into three or more such contracts)

f. b. Applicants with at least one principal having an ownership interest of at least 25% in the controlling general partner or managing member for the proposed development that is an individual with a VOSB certification, as described in subdivision 5 e a of this subsection. An applicant seeking points in this subdivision 5 f b must provide in its application a certification, in a form to be developed by the executive director, certifying that no spousal relationship exists between the principal with a VOSB certification and any other principal having an ownership interest in the development who does not also possess a VOSB certification. (30 points)

g. c. Applicants may receive negative points toward their application as follows:

(1) Any applicant that includes a principal that was a principal in a development at the time the authority inspected such development and discovered a life-threatening hazard under HUD's Uniform Physical Condition Standards and such hazard was not corrected in the timeframe established by the authority. (minus 50 points for a period of three years after the violation has been corrected)

(2) Any applicant that includes a principal that was a principal in a development that either (i) at the time the authority reported such development to the IRS for noncompliance had not corrected such noncompliance by the time a Form 8823 was filed by the authority or (ii) remained out-of-compliance with the terms of its extended use commitment after notice and expiration of any cure period set by the authority. (minus 15 points for a period of three calendar years after the year the authority filed Form 8823 or expiration of such cure period, unless the executive director determines that such principal's

attempts to correct such noncompliance was prohibited by a court, local government, or governmental agency, in which case, no negative points will be assessed to the applicant, or 0 points, if the appropriate individual connected to the principal attend compliance training as recommended by the authority)

(3) Any applicant that includes a principal that is or was a principal in a development that (i) did not build a development as represented in the application for credit (minus two times the number of points assigned to the items not built or minus 50 points per requirement for failing to provide a minimum building requirement, for a period of three years after the last Form 8609 is issued for the development, in addition to any other penalties the authority may elect to seek under its agreements with the applicant), or (ii) has a reservation of credits terminated by the authority. (minus 10 points a period of three years after the credits are returned to the authority)

(4) Any applicant that includes a management company in its application that is rated unsatisfactory by the executive director or if the ownership of any applicant includes a principal that is or was a principal in a development that hired a management company to manage a tax credit development after such management company received a rating of unsatisfactory from the executive director during the compliance period and extended use period of such development. (minus 25 points)

(5) Any applicant that includes a principal that was a principal in a development for which the actual cost of construction (as certified in the Independent Auditor's Report with attached Certification of Sources and Uses that is submitted in connection with the Owner's Application for IRS Form 8609) exceeded the applicable cost limit by 5.0% or more (minus 50 points for a period of three calendar years after December 31 of the year the cost certification is complete; provided, however, if the board of commissioners determines that such overage was outside of the applicant's control based upon documented extenuating circumstances, no negative points will be assessed)

(6) Any applicant that includes a controlling general partner or managing member of the controlling general partner or managing member in the applicant that acted as a principal in a development receiving an allocation of credits from the authority where ~~(i) such principal met the requirements to be eligible for points under subdivision 5 a or 5 c of this subsection and (ii) such principal made more than two requests for final inspection.~~ (minus 5 points for two years)

6. Efficient use of resources. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the standard per unit credit amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (100 points multiplied by the percentage by which the total amount of the per unit credit amount of the proposed

development is less than the applicable standard per unit credit amount established by the executive director, negative points will be assessed using the percentage by which the total amount of the per unit credit amount of the proposed development exceeds the applicable standard per unit credit amount established by the executive director)

The executive director may use a standard per square foot credit amount and a standard per square foot cost amount in establishing the per unit credit amount in this subdivision 6. For the purpose of calculating the points to be assigned pursuant to this subdivision 6, all credit amounts shall include any credits previously allocated to the development.

7. Bonus points.

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision 7 a may not receive points under subdivision 7 b of this subsection. (Up to 50 points, the product of (i) 100 multiplied by (ii) the percentage of housing units in the proposed development both rent restricted to and occupied by households at or below 50% of the area median gross income; plus one point for each percentage point of such housing units in the proposed development that are further restricted to rents at or below 30% or 40% of the area median gross income up to an additional 10 points) If the applicant commits to providing housing units in the proposed development both rent-restricted to and occupied by households at or below 30% of the area median gross income and that are not subsidized by project-based rental assistance. (plus 1 point for each percentage point of such housing units in the proposed development, up to an additional 10 points)

b. Commitment by the applicant to impose rent limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision 7 b may not receive points under subdivision 7 a of this subsection. (Up to 25 points, the product of (i) 50 multiplied by (ii) the percentage of housing units in the proposed development rent restricted to households at or below 50% of the area median gross income; plus one point for each percentage point of such housing units in the proposed development that are further restricted to rents at or below 30% or 40% of the area median gross income up to an additional 10 points. Points for proposed developments in low-income jurisdictions shall be two times the points calculated in the preceding sentence, up to 50 points)

c. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 30-year

extended use period (as defined in the IRC). Applicants receiving points under this subdivision 7 c may not receive bonus points under subdivision 7 d of this subsection. (40 points for a 10-year commitment beyond the 30-year extended use period or 70 points for a 20-year commitment beyond the 30-year extended use period)

d. Participation by a local housing authority or qualified nonprofit organization (substantially based or active in the community with at least a 10% ownership interest in the general partnership interest of the partnership) and a commitment by the applicant to sell the proposed development pursuant to an executed, recordable option or right of first refusal to such local housing authority or qualified nonprofit organization or to a wholly owned subsidiary of such organization or authority, at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for-profit entity. The applicant must record such option or right of first refusal immediately after the low-income housing commitment described in 13VAC10-180-70. Applicants receiving points under this subdivision 7 d may not receive bonus points under subdivision 7 c of this subsection. (60 points; plus five points if the local housing authority or qualified nonprofit organization submits a homeownership plan satisfactory to the authority in which the local housing authority or qualified nonprofit organization commits to sell the units in the development to tenants)

e. Any development participating in the Rental Assistance Demonstration (RAD) program, or other conversion to project-based vouchers or project-based rental assistance approved by the authority, competing in the local housing authority pool will receive an additional 10 points. Applicants must show proof of a commitment to enter into housing assistance payment (CHAP) or a RAD conversion commitment (RCC).

f. Any applicant that commits in the application to submit any payments due the authority, including reservation fees and monitoring fees, by electronic payment. (5 points)

In calculating the points for subdivisions 7 a and 7 b of this subsection, any units in the proposed development required by the locality to exceed 60% of the area median gross income will not be considered when calculating the percentage of low-income units of the proposed development with incomes below those required by the IRC in order for the development to be a qualified low-income development, provided that the locality submits evidence satisfactory to the authority of such requirement.

After points have been assigned to each application in the manner described in this subsection, the executive director shall compute the total number of points assigned to each such application. Any application that is assigned a total number of points less than a threshold amount of 300 points (200 points for developments financed with tax-exempt bonds in such amount so as not to require under the IRC an allocation of credits under this chapter) shall be rejected from further

Regulations

consideration under this chapter and shall not be eligible for any reservation or allocation of credits.

F. During its review of the submitted applications in all pools, the authority may conduct:

1. Its own analysis of the demand for the housing units to be produced by each applicant's proposed development. Notwithstanding any conclusion in the market study submitted with an application, if the authority determines that, based upon information from its own loan portfolio or its own market study, inadequate demand exists for the housing units to be produced by an applicant's proposed development, the authority may exclude and disregard the application for such proposed development.
2. A site visit to the applicant's proposed development. Notwithstanding any conclusion in any environmental site assessment submitted with an application, if the authority determines that the applicant's proposed development presents health or safety concerns for potential tenants of the development, the authority may exclude and disregard the application for such proposed development.

G. The executive director:

1. May exclude and disregard any application that the executive director determines is not submitted in good faith or that the executive director determines would not be financially feasible.
2. May determine that an application is substantially incomplete and ineligible for further review.
3. May also choose to allow for the immediate correction of minor and immaterial defects affecting mandatory items (but not points items) in an application. Should the executive director choose to allow correction, applicants will be given 48 hours from the time of notification to cure defects with the application. If the executive director allows an applicant to cure minor defects, that does not constitute approval or acceptance of the application and is not an assurance that the application, upon further review, will be deemed acceptable.

Examples of items that may be considered as "curable" include:

- a. If the applicant has failed to include a required document, the applicant may supply the document; provided, however, that the document existed on the application deadline date and, if the document is a legal agreement or instrument, the document was legally effective on the application deadline date;
- b. If statements or items in the application are contradictory or mutually inconsistent, the applicant may present information resolving the contradiction or inconsistency; provided, however, that the information accurately reflects the state of affairs on the application deadline date;

c. The applicant may provide any required signature that has been omitted, except for applications that the executive director deems to be substantially incomplete; and

d. The applicant may cure any scrivener's error, missing or defective notarization, defective signature block, or defective legal name of an individual or entity.

4. Shall notify the applicant of any curable defects it discovers by telephone, and, simultaneously, in writing electronically (email). The applicant's corrective submission shall not be considered unless it is received by the executive director no later than 48 hours (excluding weekends and legal holidays) from the notification. If an applicant fails to respond to the notification of curable defects within the 48-hour cure period, or if an applicant's response fails to address the question asked, a negative conclusion shall be drawn. Failure to respond to an item in a cure notification will result in the denial of points in that category or the application may be deemed to not meet threshold. After the application deadline, telephone calls or other oral or written communications on behalf of a tax credit applicant (e.g., from a project's development team, elected representatives) other than information submitted pursuant to this subdivision shall not be accepted or considered before preliminary reservation awards have been announced.

5. Upon assignment of points to all of the applications, shall rank the applications based on the number of points so assigned. If any pools shall have been established, each application shall be assigned to a pool and, if any, to the appropriate tier within such pool and shall be ranked within such pool or tier, if any. The amount of credits made available to each pool will be determined by the executive director. Available credits will include unreserved per capita dollar amount credits from the current calendar year under § 42(h)(3)(C)(i) of the IRC, any unreserved per capita credits from previous calendar years, and credits returned to the authority prior to the final ranking of the applications and may include up to 50% of the next calendar year's per capita credits as shall be determined by the executive director. Those applications assigned more points shall be ranked higher than those applications assigned fewer points. However, if any set-asides established by the executive director cannot be satisfied after ranking the applications based on the number of points, the executive director may rank as many applications as necessary to meet the requirements of such set-aside (selecting the highest ranked application, or applications, meeting the requirements of the set-aside) over applications with more points.

H. The authority shall, in the event of a tie in the number of points assigned to two or more applications within the same pool, or, if none, within the Commonwealth, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the

developments described in that pool, to the extent necessary to fully utilize the amount of credits available for reservation within such pool or, if none, within the Commonwealth, select one or more of the applications with the highest combination of points from subdivision E 7 of this section. Each application so selected shall receive, in order based upon the number of such points, beginning with the application with the highest number of such points, a reservation of credits. If two or more of the tied applications receive the same number of points from subdivision E 7 of this section and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described in the tied for points applications, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive in order of such selection by lot a reservation of credits.

I. The executive director:

1. For each application that may receive a reservation of credits, shall determine the amount, as of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider:

- a. The sources and uses of the funds;
- b. The available federal, state, and local subsidies committed to the development;
- c. The total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development; and
- d. The percentage of the credit dollar amount used for development costs other than the costs of intermediaries.

2. Shall examine the development's costs, including developer's fees and other amounts in the application, for reasonableness, and if the executive director determines that such costs or other amounts are unreasonably high, the executive director shall reduce them to amounts that the executive director determines to be reasonable.

3. Shall review the applicant's projected rental income, operating expenses, and debt service for the credit period.

4. May establish such criteria and assumptions as the executive director shall deem reasonable for the purpose of making such determination, including:

- a. Criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development;

b. Increases in the market value of the development and increases in operating expenses, rental income; and

c. In the case of applications without firm financing commitments at fixed interest rates, debt service on the proposed mortgage loan.

5. May, if the executive director deems it appropriate, consider the development to be a part of a larger development. In such a case, the executive director may consider, examine, review, and establish any or all of the items described in this subsection as to the larger development in making such determination for the development.

J. Maximum developer fee calculations will be indicated on the application form, instructions, or other communication available to the public. Notwithstanding such calculations of developer fee, (i) no more than \$3 million developer fee may be included in the eligible basis of developments seeking 9.0% credits, (ii) no more than \$3 million developer fee may be included in the eligible basis of developments seeking 4.0% credits, unless at least 30% of the developer fee is deferred, (iii) no developer fee may exceed \$5 million, and (iv) no developer fee may exceed 15% of the development's total development cost, as determined by the authority.

K. The executive director:

1. Shall reserve credits to applications in descending order of ranking within each pool and tier, if applicable, until either substantially all credits in each pool and tier are reserved or all qualified applications in each pool and tier have received reservations at such time during each calendar year as the executive director shall designate. If there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.

2. May rank the applications within pools at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool.

3. May establish more than one round of review and ranking of applications and reservation of credits based on such rankings.

4. Shall designate the amount of credits to be made available for reservation within each pool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

Regulations

5. Shall deem any development seeking more credits than are available within a credit pool in which it competes as financially infeasible and ineligible for any reservation or allocation of credits from any pool.

6. If any credits remain in any pool after moving proposed developments and credits to another pool, may for developments that meet the requirements of § 42(h)(1)(E) of the IRC only, reserve the remaining credits to any proposed development scoring at or above the minimum point threshold established by this chapter without regard to the ranking of such application with additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. The reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be in the reasonable discretion of the executive director if the executive director determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated, or canceled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

7. In the event that during any round of application review and ranking the amount of credits reserved within any pools is less than the total amount of credits made available therein during such round, may:

- a. Leave such unreserved credits in such pools for reservation and allocation in any subsequent rounds;
- b. Redistribute such unreserved credits to such other pools as the executive director may designate;
- c. Supplement such unreserved credits in such pools with additional credits from the Commonwealth's annual state housing credit ceiling for the following year for reservation and allocation if in the reasonable discretion of the executive director, it serves the best interest of the plan;
- d. Carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year; or
- e. Move a development from the nonprofit or new construction pool to its appropriate geographic pool to more fully or fully utilize the total amount of credits made available during such round.

L. 1. The total amount of credits that may be awarded in any credit year after credit year 2001 to any applicant or to any related applicants for one or more developments shall not exceed 15% of Virginia's per capita dollar amount of credits for such credit year (credit cap).

2. However, if the amount of credits to be reserved in any such credit year to all applications assigned a total number of points at or above the threshold amount set forth in this section shall be less than Virginia's dollar amount of credits available for such credit year, then the authority's board of

commissioners may waive the credit cap to the extent it deems necessary to reserve credits in an amount at least equal to such dollar amount of credits.

3. Applicants shall be deemed to be related if any principal in a proposed development or any person or entity related to the applicant or principal will be a principal in any other proposed development. For purposes of this subsection, a principal shall also include any person or entity who, in the determination of the executive director, has exercised or will exercise, directly or indirectly, substantial control over the applicant or has performed or will perform (or has assisted or will assist the applicant in the performance of), directly or indirectly, substantial responsibilities or functions customarily performed by applicants with respect to applications or developments.

4. For the purpose of determining whether any person or entity is related to the applicant or principal, persons or entities shall be deemed to be related if the executive director determines that any substantial relationship existed, either directly between them or indirectly through a series of one or more substantial relationships (e.g., if party A has a substantial relationship with party B and if party B has a substantial relationship with party C, then A has a substantial relationship with both party B and party C), at any time within three years of the filing of the application for the credits.

5. In determining in any credit year whether an applicant has a substantial relationship with another applicant with respect to any application for which credits were awarded in any prior credit year, the executive director shall determine whether the applicants were related as of the date of the filing of such prior credit year's application or within three years prior thereto and shall not consider any relationships or any changes in relationships subsequent to such date.

6. Substantial relationships shall include the following relationships (in each of the following relationships, the persons or entities involved in the relationship are deemed to be related to each other):

- a. The persons are in the same immediate family (including a spouse, children, parents, grandparents, grandchildren, brothers, sisters, uncles, aunts, nieces, and nephews) and are living in the same household;
- b. The entities have one or more common general partners or members (including related persons and entities), or the entities have one or more common owners that (by themselves or together with any other related persons and entities) have, in the aggregate, 5.0% or more ownership interest in each entity;
- c. The entities are under the common control (e.g., the same person and any related persons serve as a majority of the voting members of the boards of such entities or as chief executive officers of such entities) of one or more persons or entities (including related persons and entities);

- d. The person is a general partner, member, or employee in the entity or is an owner (solely or together with any other related persons and entities) of 5.0% or more ownership interest in the entity;
 - e. The entity is a general partner or member in the other entity or is an owner (by itself or together with any other related persons and entities) of 5.0% or more ownership interest in the other entity; or
 - f. The person or entity is otherwise controlled, in whole or in part, by the other person or entity.
7. In determining compliance with the credit cap with respect to any application, the executive director may exclude any person or entity related to the applicant or to any principal in such applicant if the executive director determines that:
- a. Such person or entity will not participate, directly or indirectly, in matters relating to the applicant or the ownership of the development to be assisted by the credits for which the application is submitted;
 - b. Such person or entity has no agreement or understanding relating to such application or the tax credits requested within the application; and
 - c. Such person or entity will not receive a financial benefit from the tax credits requested in the application.
8. A limited partner or other similar investor shall not be determined to be a principal and shall be excluded from the determination of related persons or entities unless the executive director shall determine that such limited partner or investor will, directly or indirectly, exercise control over the applicant or participate in matters relating to the ownership of the development substantially beyond the degree of control or participation that is usual and customary for limited partners or other similar investors with respect to developments assisted by the credits.
9. If the award of multiple applications of any applicant or related applicants in any credit year shall cause the credit cap to be exceeded, such applicant shall, upon notice from the authority, jointly designate those applications for which credits are not to be reserved so that such limitation shall not be exceeded. Such notice shall specify the date by which such designation shall be made. In the absence of any such designation by the date specified in such notice, the executive director shall make such designation as the executive director shall determine to best serve the interests of the program.
10. Each applicant and each principal of the applicant shall make such certifications, shall disclose such facts, and shall submit such documents to the authority as the executive director may require to determine compliance with the credit cap. If an applicant or any principal of the applicant makes any misrepresentation to the authority concerning such applicant's or principal's relationship with any other person or entity, the executive director may reject any or all of such applicant's pending applications for reservation or allocation of credits, may terminate any or all reservations of credits to the applicant, and may prohibit such applicant, the principals of the applicant, and any persons and entities then or thereafter having a substantial relationship (in the determination of the executive director as described in this subsection) with the applicant or any principal of the applicant from submitting applications for credits for such period of time as the executive director shall determine.
- M. The executive director:
1. Shall notify each applicant for such reservations of credits within a reasonable time after credits are reserved to any applications either:
 - a. Of the amount of credits reserved to such applicant's application by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director in the application, by the IRC, and by this chapter; or
 - b. That the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance with this section.The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development unless the transfer is consented to by the executive director. The written binding commitment shall further limit developer fees to the amounts established during the review of the applications for reservation of credits and such amounts shall not be increased unless consented to by the executive director.
 2. May reserve additional credits from the current year equal to the amount of credits allocated to such developments from prior years if credits are reserved to any applicants for developments that have also received an allocation of credits from prior years, provided such previously allocated credits are returned to the authority. Any previously allocated credits returned to the authority under such circumstances shall be placed into the credit pools from which the current year's credits are reserved to such applicants.
 3. Shall make a written explanation available to the general public for any allocation of housing credit dollar amount that is not made in accordance with established priorities and selection criteria of the authority.
 - a. The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall

Regulations

deem necessary or appropriate to ensure compliance with the binding commitment issued or to be issued to the applicant, the IRC, and this chapter.

b. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

4. May require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to ensure that the applicant will comply with all requirements under the IRC, this chapter, and the binding commitment (including any requirement to conform to all of the representations, commitments, and information contained in the application for which points were assigned pursuant to this section).

Upon satisfaction of all such requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

N. If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter, and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in subsection M of this section, nor to relieve the applicant from any other requirements for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided in subsection M of this section with respect to reservations.

O. The executive director may:

1. Require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as the executive director shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment, and any contractual agreements between the applicant and the authority.

2. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development that were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment:

a. Terminate the reservation of such credits and draw on any good faith deposit; or

b. Substitute the reservation of credits from the current credit year with a reservation of credits from a future credit year if the delay is caused by a lawsuit beyond the applicant's control that prevents the applicant from proceeding with the development.

If, in lieu of or in addition to this determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, the executive director may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

3. Establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as the executive director shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant to such applications.

P. Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits as presented in the application shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the binding commitment, and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with respect to such credits. If such changes are made without the prior written approval of the executive director, the executive director may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect to such credits, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or perform any combination of such remedies.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, the executive director may reserve, allocate or carry over, as applicable, such credits in such manner as the executive director shall determine consistent with the requirements of the IRC and this chapter.

Q. The executive director may make a reservation of credits:

1. In an accessible supportive housing pool (ASH pool) to any applicant that proposes a nonelderly development that (i) will be assisted by a documented and binding form of rental assistance in order to ensure occupancy by extremely low-income persons; (ii) conforms to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; (iii) will be actively marketed to people

with disabilities in accordance with a plan submitted as part of the application for credits and approved by the executive director for at least 15% of the units in the development; (iv) has budgeted for the ongoing provision of services; (v) maintains dedicated services staff; and (vi) has a principal with a demonstrated capacity for supportive housing evidenced by prior services funding contracts, a certification from a certifying body acceptable to the executive director or other preapproved source, and the applicant's completion on behalf of the principal of the authority's supportive housing certification form. ASH pool reservations made in any calendar year may be up to 10% of the Commonwealth's annual state housing credit ceiling for the applicable credit year. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from the following calendar year. If the ASH pool application deadline is simultaneous with the deadline for the other pools, the unsuccessful applicants in the ASH pool will also compete in the applicable geographic pool.

2. To developments having unique and innovative development concepts, such as innovative construction methods or materials; unique or innovative tenant services, tenant selection criteria, or eviction policies; or otherwise innovatively contributing to the authority's identified mission and goals. The applications for such credits must meet all the requirements of the IRC and threshold score. The authority shall also establish a review committee comprised of external real estate professionals, academic leaders, and other individuals knowledgeable of real estate development, design, construction, accessibility, energy efficiency, or management to assist the authority in determining and ranking the innovative nature of the development. Such reservations will be for credits from the next year's per capita credits and may not exceed 12.5% of the credits expected to be available for that following calendar year. Such reservations shall not be considered in the executive director's determination that no more than 50% of the next calendar year's per capita credits have been pre-reserved.

3. In a preservation pool to low-income housing tax credit developments seeking credit resyndication that are currently operating within an extended compliance period. Prior to application, applicants must have completed more than 20 years of compliance under the existing extended use agreement issued in connection with the respective development's most recent credit allocation, and the credit investor or syndicator in place at the time of the allocation must have transferred all of its ownership interest in the development. Applicants awarded credits from this pool shall be subject to additional rent increase limits, as determined by the authority in the best interest of the plan, for a period of five years beginning on the first day of the new credit period. Preservation pool reservations made in any calendar year may be up to 10% of the Commonwealth's annual state housing credit ceiling for the applicable credit year. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from

the following calendar year. Unsuccessful applicants in the preservation pool will also compete in the applicable geographic pool.

VA.R. Doc. No. R26-8463; Filed September 12, 2025; 8:51 a.m.

TITLE 17. LIBRARIES AND CULTURAL RESOURCES

BOARD OF HISTORIC RESOURCES

Final Regulation

Title of Regulation: 17VAC5-40. Regulations Governing Contextualization of Monuments or Memorials for Certain War Veterans (adding 17VAC5-40-10 through 17VAC5-40-50).

Statutory Authority: § 10.1-2204 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Sarah Spota, Deputy Director, Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, telephone (804) 482-6082, or email sarah.spota@dhr.virginia.gov.

Summary:

Pursuant to Chapters 1100 and 1101 of the 2020 Acts of Assembly, the amendments establish Regulations Governing Contextualization of Monuments or Memorials for Certain War Veterans (17VAC5-40), which provides local governing bodies that choose to contextualize certain war monuments or memorials within their jurisdiction requirements for the markers, including (i) the marker's appearance, location, and ownership; (ii) application requirements; and (iii) the application approval process.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Chapter 40

Regulations Governing Contextualization of Monuments or Memorials for Certain War Veterans

17VAC5-40-10. Definitions.

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

"Application" means an application for approval of a marker and contextualization text, in a form prescribed by the director and containing the basic information required by 17VAC5-40-40.

"Board" means the Virginia Board of Historic Resources.

Regulations

"Contextualization text" means text that contextualizes or purports to contextualize a monument or memorial.

"Contextualize" means the use of facts derived from primary or footed secondary sources, to include oral history, to explain the circumstances, influences, and conditions that existed at the time a war memorial or monument was erected and that resulted in its erection.

"Department" means the Virginia Department of Historic Resources.

"Director" means the Director of the Virginia Department of Historic Resources.

"Locality's public property" means any property owned by a locality, excluding any publicly owned cemetery.

"Marker" means a marker, plaque, or signage of any kind that bears or contains a contextualization text. The term "marker," though singular, includes one or more markers, plaques, or signs of any kind. A marker is not a monument or memorial.

"Monument" or "memorial" means any object erected on a locality's public property pursuant to § 15.2-1812 of the Code of Virginia intended to commemorate the veterans of any war or conflict or any engagement of such war or conflict to include the following: Algonquin (1622), French and Indian (1754-1763), Revolutionary (1775-1783), War of 1812 (1812-1815), Mexican (1846-1848), Civil War (1861-1865), Spanish-American (1898), World War I (1917-1918), World War II (1941-1945), Korean (1950-1953), Vietnam (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000-), Operation Enduring Freedom (2001-), and Operation Iraqi Freedom (2003-). "Monument" or "memorial" includes both the object and the pedestal on which an object is placed. "Monument" or "memorial" does not include any monument or memorial located in a publicly owned cemetery.

17VAC5-40-20. Applicability.

This chapter shall apply to any locality that proposes to contextualize any monument or memorial pursuant to § 15.2-1812 of the Code of Virginia. The contextualization of monuments by any locality is voluntary.

17VAC5-40-30. General provisions.

A. After fulfilling the requirements set forth in § 15.2-1812 B of the Code of Virginia, any locality proposing to contextualize any monument or memorial shall submit an application to the department and obtain approval of the application from the board. No contextualization text shall be produced anywhere on or near a monument or memorial except on a marker approved by the board.

B. No marker shall be erected or placed on or near a monument or memorial without approval from the board.

C. If a marker is erected without having received approval from the board, then such marker must be removed. If contextualization text is produced on or near a monument or memorial on anything other than a marker approved by the board, such contextualization text must be removed.

D. If the board has approved contextualization text and an application and a locality subsequently desires to change the contextualization text or marker, then the locality must submit a new application for such change.

E. Markers shall differ in style and appearance from state historical markers and shall display on the face of the marker prominent notice of the governing body or the governing body's agent that funded its production and erection. The contextualization text on a marker shall adhere to the formatting guidelines as described in the application.

F. Any marker that is erected shall be the property of the locality.

G. The locality shall be responsible for covering all expenses associated with producing and installing the marker.

H. The locality shall be responsible for covering all expenses associated with removing (i) any unapproved marker installed by the locality and (ii) any contextualization text that is produced on or near a monument or memorial that is not on a marker approved by the board.

I. The name of the locality and the year the marker was created shall appear on the marker.

J. Only one contextualization text per monument or memorial will be approved by the board. Such contextualization text may be produced on one or more markers.

17VAC5-40-40. Marker approval application.

A. Subject to the requirements of this chapter, a locality may, at its own expense, contextualize any monument or memorial located on the locality's public property by erecting a marker that contains contextualization text.

B. Prior to erecting such a marker, the locality shall submit an application to the department and obtain approval from the board of such application.

C. The application shall be in such form as prescribed by the director and shall include the following basic information:

1. Name, address, email address, and telephone number of the local government official who will serve as the primary point of contact;
2. Location and description of the monument or memorial for which the contextualization text and the marker is proposed;
3. The text of any and all inscriptions that appear on the monument or memorial;

4. A statement indicating when the monument or memorial was erected, who erected it, and who paid for it, if known, accompanied by documents verifying this information;

5. A statement of purpose of the contextualization project, the contextualization text, and the marker;

6. The proposed text for the marker, which shall include the following information:

a. A description of who commissioned, paid for, and created the monument or memorial; when it was erected; and what it depicts;

b. A description of the documented reasons for the creation of the monument or memorial;

c. A description of any documented local opposition at any time to the monument or memorial; and

d. A description of the historical era in which the monument or memorial was erected, including information about who held local political power;

7. The proposed location for the marker, which location shall (i) be at or close to the monument or memorial being contextualized and (ii) permit the public to safely view the marker;

8. Documentation relevant to the application, including (i) copies of all references and sources used to draft the proposed contextualization text for the marker and (ii) photographs of the monument or memorial to be contextualized;

9. The expected timetable for erection or placement of the marker; and

10. The design, appearance, size, and height for the proposed marker.

D. The department shall process up to five applications for contextualization per quarter on a first-come, first-served basis. Any applications received after the first five will be deferred to the next board cycle. The department shall review the applications for completeness and accuracy. The department, as it deems necessary, may request additional documentation and information from an applicant. The department may deny an application if it is incomplete or otherwise does not include all the documentation or information required by the department. After the department determines that an application is complete and accurate, the department will present the application to the board.

17VAC5-40-50. Issuance of approval.

A. The board shall evaluate applications presented by the department to the board and determine whether to approve such applications. Approval of an application is in the board's sole discretion. In evaluating whether to approve an application, the board may consider, without limitation:

1. Whether the proposed marker contains true and correct contextualization text;

2. Whether the proposed contextualization text provides a complete and accurate historical context of the monument or memorial;

3. The quality and validity of the documented sources and documented research provided;

4. Whether the proposed design, appearance, size, and height for the marker differs in style and appearance from state historical markers; and

5. The appropriateness of the proposed location of the marker.

B. The actual contextualization text, location, design, appearance, size, and height of a marker as erected shall not differ from the contextualization text, location, design, appearance, size, and height set forth in the application that has been approved by the board.

C. The board shall not consider any application until the department has determined that such application is complete and accurate and that sufficient documentary evidence has been submitted to establish the authenticity of the proposed contextualization text for the project.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (17VAC5-40)

[Monument or Memorial Contextualization Approval Application \(eff. 12/2021\)](#)

VA.R. Doc. No. R22-6919; Filed September 9, 2025, 2:17 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

Final Regulation

REGISTRAR'S NOTICE: The Auctioneers Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Regulations

Title of Regulation: 18VAC25-21. Regulations of the Virginia Auctioneers Board (amending 18VAC25-21-20, 18VAC25-21-50, 18VAC25-21-180).

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Auctioneers Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, fax (866) 465-6206, or email auctioneers@dpor.virginia.gov.

Summary:

Pursuant to Chapter 505 of the 2025 Acts of Assembly, which prohibits regulatory boards from denying licenses, certifications, or registrations based on vague or arbitrary terms and requires the regulatory board to provide written notice specifying offenses, their relevance to the profession, and how rehabilitation was considered when an applicant is denied due to a criminal record, the amendments require applicants to disclose misdemeanor convictions involving dishonest or fraudulent acts and stipulate that licensees may be subject to discipline if convicted or found guilty of any misdemeanor involving dishonest or fraudulent acts.

18VAC25-21-20. Licensure by examination for individuals.

All persons or firms as defined in § 54.1-600 of the Code of Virginia who conduct auctions or offer their services to sell at auction in the Commonwealth are required to file a licensure application and pay the specified fee to the board. In addition to the requirements established in § 54.1-603 of the Code of Virginia, applicants for individual licensure must meet the following requirements:

1. Be at least 18 years of age.
2. In accordance with § 54.1-204 of the Code of Virginia, disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:
 - a. Non-marijuana misdemeanors involving ~~moral turpitude~~ dishonest or fraudulent acts, sexual offenses, drug distribution, or physical injury within three years of the date of the application; and
 - b. All felony convictions within 10 years of the date of application.

The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

3. The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other

corrective action. The board, in its discretion, may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction.

18VAC25-21-50. Application.

A. All applicants seeking licensure must submit a complete application with the appropriate fees attached. Applicants will be notified if the application is incomplete.

B. 1. For any corporation, limited liability company, or other entity, the application must include copies of the certificate of incorporation or certificate of organization issued by the Virginia State Corporation Commission, articles, and bylaws.

2. For any foreign corporation, foreign limited liability company, or other entity, the application must include copies of the certificate of authority to conduct business issued by the Virginia State Corporation Commission, which will be required in lieu of the certificates as required by subdivision 1 of this subsection.

3. In accordance with § 54.1-204 of the Code of Virginia, any entity must disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:

- a. Non-marijuana misdemeanors involving ~~moral turpitude~~ dishonest or fraudulent acts, sexual offenses, drug distribution, or physical injury within three years of the date of the application; and
- b. All felony convictions within 10 years of the date of application.

The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

4. The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board, in its discretion, may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction.

18VAC25-21-180. Discipline.

The board has the power to fine any individual or firm licensee or to suspend or revoke any license issued under the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) if ~~it~~ the board finds that:

1. The license was obtained, renewed, or reinstated through fraud or misrepresentation;

2. The licensee has been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States, of a non-marijuana misdemeanor involving ~~moral turpitude~~ dishonest or fraudulent acts or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of prior criminal convictions will be subject to the requirements of § 54.1-204 of the Code of Virginia;

3. The licensee has been found by any regulatory board, agency, or jurisdiction where licensed to have had a license or registration suspended, revoked, or surrendered in connection with a disciplinary action, to have been the subject of discipline in another jurisdiction, or to have violated any applicable regulations or laws in the course of performing auctioneer duties;

4. The licensee has not demonstrated reasonable care, judgment, or application of ~~his~~ the licensee's knowledge and ability in the performance of auctioneering duties;

5. The licensee violated or assisted another to violate any provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), or 6 of Title 54.1 of the Code of Virginia, this chapter, or combined or conspired with or acted as agent, partner, or associate for another; or

6. The licensee fails to comply, or misrepresents any information pertaining to the licensee's compliance, with any of the continuing education requirements contained in this chapter.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (18VAC25-21)

~~Auctioneer License by Examination Application, A429-2907EXLIC v4 (rev. 6/2015)~~

[Auctioneer License by Examination Application, A429-2907LIC-v8 \(rev. 11/2025\)](#)

[Auctioneer Surety Bond Form, 2905_07BOND \(rev. 4/2010\)](#)

~~Auctioneer Firm License Application, 2908LIC (rev. 11/2008)~~

[Auctioneer Firm License Application, A429-2908LIC-v3 \(rev. 11/2025\)](#)

[Auction Firm Surety Bond Form, 2906_08BOND \(rev. 11/2008\)](#)

[States with Approved Reciprocal Agreements, 29RECEST \(rev. 2/2012\)](#)

[Virginia Approved Auctioneering Schools, 29SCHLST \(rev. 9/2013\)](#)

[School of Auctioneering - Course Approval Application, A429-29CRS-v3 \(rev. 10/2025\)](#)

~~Auctioneer License By Reciprocity Application, 2907RECLIC (rev. 11/2008)~~

~~Auctioneer License Reinstatement Application, 2905_07REI (rev. 11/2008)~~

[Auctioneer License by Reciprocity Application, A429-2907RECLIC-v2 \(rev. 11/2025\)](#)

[Auctioneer License Reinstatement Application, A429-2905_07REI-v2 \(rev. 11/2025\)](#)

[Application for Continuing Education Course Approval, A429-29CECRS-v4 \(rev. 10/2025\)](#)

[Auctioneer Firm License Renewal Form, 2906_08REN \(eff. 11/2008\)](#)

[Individual Auctioneer License Renewal Form, 2905_07REN \(eff. 11/2008\)](#)

[Continuing Education Medical Exemption Request, 2905_07CEXMP \(eff. 11/2008\)](#)

[Criminal Conviction Reporting Form, A406-01CCR-v2 \(rev. 9/2015\)](#)

[Disciplinary Action Reporting Form, A406-01DAR-v1 \(5/2015\)](#)

[Auctioneer Universal License Recognition \(ULR\) Application, A429-2907ULR-v2 \(rev. 11/2025\)](#)

VA.R. Doc. No. R26-8414; Filed September 16, 2025, 8:54 a.m.

BOARD OF NURSING

Final Regulation

REGISTRAR'S NOTICE: The Board of Nursing 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: 18VAC90-30. Regulations Governing the Licensure of Advanced Practice Registered Nurses (amending 18VAC90-30-10, 18VAC90-30-123).

18VAC90-70. Regulations Governing the Practice of Licensed Certified Midwives (amending 18VAC90-70-10, 18VAC90-70-110).

Regulations

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

Effective Date: November 5, 2025.

Agency Contact: Claire Morris, RN, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4665, or email claire.morris@dhp.virginia.gov.

Summary:

Pursuant to Chapters 544 and 557 of the 2025 Acts of Assembly, the amendments allow (i) a licensed certified midwife who has 1,000 hours of practice to practice independently, similar to the requirements for certified nurse midwives and (ii) midwives who have practiced independently for two or more years to supervise other midwives who do not currently qualify for independent practice.

18VAC90-30-10. Definitions.

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

"Approved program" means an advanced practice registered nurse education program that is accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, Commission on Collegiate Nursing Education, or the National League for Nursing Accrediting Commission or is offered by a school of nursing or jointly offered by a school of medicine and a school of nursing that grant a graduate degree in nursing and that hold a national accreditation acceptable to the boards.

"Autonomous practice" means practice in a category in which an advanced practice registered nurse is certified and licensed without a written or electronic practice agreement with a patient care team physician in accordance with 18VAC90-30-86.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957 of the Code of Virginia.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957 of the Code of Virginia, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957 of the Code of Virginia.

"Clinical nurse specialist" means an advanced practice registered nurse who is certified in the specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing as an advanced practice registered nurse pursuant to § 54.1-2957 of the Code of Virginia.

"Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Consultation" means the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem solving, and arranging for referrals, testing, or studies.

"Conversion therapy" means any practice or treatment as defined in § 54.1-2409.5 A of the Code of Virginia.

"Independent practice midwife" means (i) a licensed certified midwife who has completed a minimum of 1,000 hours of practice, is authorized to practice without a practice agreement, and has practiced independently for two years or (ii) a certified nurse midwife who is authorized to practice without a practice agreement and has practiced independently for two years.

"Licensed nurse practitioner" means an advanced practice registered nurse who has met the requirements for licensure as stated in Part II (18VAC90-30-60 et seq.) of this chapter.

"National certifying body" means a national organization that is accredited by an accrediting agency recognized by the U.S. Department of Education or deemed acceptable by the National Council of State Boards of Nursing and has as one of its purposes the certification of nurse anesthetists, nurse midwives, or advanced practice registered nurses, referred to in this chapter as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Patient care team physician" means a person who holds an active, unrestricted license issued by the Virginia Board of Medicine to practice medicine or osteopathic medicine.

"Practice agreement" means a written or electronic statement, jointly developed by the collaborating patient care team physician and the licensed advanced practice registered nurse that describes the procedures to be followed and the acts appropriate to the specialty practice area to be performed by the licensed advanced practice registered nurse in the care and

management of patients. The practice agreement also describes the prescriptive authority of the advanced practice registered nurse, if applicable. For an advanced practice registered nurse licensed in the category of certified nurse midwife, the practice agreement is a statement jointly developed with the consulting physician or ~~a certified nurse~~ an independent practice midwife with at least two years of clinical experience. For an advanced practice registered nurse licensed in the category of clinical nurse specialist, the practice agreement shall be between the advanced practice registered nurse and a consulting physician.

18VAC90-30-123. Practice of advanced practice registered nurses licensed as certified nurse midwives.

A. An advanced practice registered nurse licensed in the category of certified nurse midwife who has practiced fewer than 1,000 hours shall practice in consultation with a licensed physician in accordance with a practice agreement between the advanced practice registered nurse and the physician or with a ~~certified nurse~~ an independent practice midwife who has practiced for at least two years prior to entering into the practice agreement. Such practice agreement shall address the availability of the physician or the ~~certified nurse~~ independent practice midwife for routine and urgent consultation on patient care.

B. The practice agreement shall be maintained by the nurse midwife and provided to the boards upon request. For nurse midwives providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse midwife's clinical privileges or the electronic or written delineation of duties and responsibilities; however, the nurse midwife shall be responsible for providing a copy to the boards upon request.

C. An advanced practice registered nurse licensed in the category of a certified nurse midwife shall practice in accordance with the Standards for the Practice of Midwifery (Revised 2011) defined by the American College of Nurse-Midwives.

18VAC90-70-10. Definitions.

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

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances containing an opioid may be prescribed for no more than three months.

"Approved program" means a midwifery education program that is accredited by the Accreditation Commission for Midwifery Education or its successor.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which

controlled substances containing an opioid may be prescribed for a period greater than three months.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Independent practice midwife" means (i) a licensed certified midwife who has completed a minimum of 1,000 hours of practice, is authorized to practice without a practice agreement, and has practiced independently for two years or (ii) a certified nurse midwife who is authorized to practice without a practice agreement and has practiced independently for two years.

"Licensed certified midwife" means an advanced practice midwife who is jointly licensed by the Boards of Nursing and Medicine pursuant to § 54.1-2957.04 of the Code of Virginia.

"MME" means morphine milligram equivalent.

"Practice agreement" means a written or electronic statement, jointly developed by the consulting licensed physician or independent practice midwife and the licensed certified midwife, that describes the availability of the physician for routine and urgent consultation on patient care.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

18VAC90-70-110. Practice of licensed certified midwives.

A. All licensed certified midwives shall practice in accordance with a written or electronic practice agreement as defined in 18VAC90-70-10, unless the licensed certified midwife has met the criteria set forth in § 54.1-2957.04 D of the Code of Virginia.

B. The written or electronic practice agreement shall include provisions for the availability of the physician or independent practice midwife for routine and urgent consultation on patient care.

C. The practice agreement shall be maintained by the licensed certified midwife and provided to the boards upon request. For licensed certified midwives providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the licensed certified midwife's clinical privileges or the electronic or written delineation of duties and responsibilities; however, the licensed certified midwife shall be responsible for providing a copy to the boards upon request.

D. The practice of licensed certified midwives shall be consistent with the standards of care for the profession.

E. The licensed certified midwife shall include on each prescription issued or dispensed the licensed certified midwife's signature and Drug Enforcement Administration (DEA) number, when applicable.

F. The licensed certified midwife shall disclose to patients at the initial encounter that the licensed certified midwife is a

Regulations

licensed certified midwife. Such disclosure may be included on a prescription or may be given in writing to the patient.

G. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation.

H. The licensed certified midwife shall disclose, upon request of a patient or a patient's legal representative, the name of the consulting physician or independent practice midwife, and information regarding how to contact the consulting physician or independent practice midwife.

VA.R. Doc. No. R26-8327; Filed September 8, 2025, 2:37 p.m.

BOARD OF OPTOMETRY

Final Regulation

REGISTRAR'S NOTICE: The Board of Optometry 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-5, 18VAC105-20-46; repealing 18VAC105-20-47).

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Kelli Moss, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4077, fax (804) 793-9145, or email kelli.moss@dhp.virginia.gov.

Summary:

Pursuant to Chapters 391 and 408 of the 2025 Acts of Assembly, which eliminated the therapeutic pharmaceutical agents (TPA) formulary and TPA formulary committee, the amendments eliminate all references to both the TPA formulary and TPA formulary committee from the regulation.

18VAC105-20-5. Definitions.

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

"Acute pain" means pain that occurs within the normal course of a disease or condition for which controlled substances may be prescribed for no more than three months.

"Active clinical practice" means an average of 20 hours per week or 640 hours per year of providing patient care.

"Adnexa" is defined as the conjoined, subordinate, or immediately associated anatomic parts of the human eye, including eyelids and eyebrows.

"Board" means the Virginia Board of Optometry.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances may be prescribed for a period greater than three months.

"Controlled substance" means drugs listed in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) in Schedules II through V.

"Laser surgery certification" means a certification issued by the board to a Virginia-licensed TPA-certified optometrist who has demonstrated compliance with the board's criteria for performance of peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy.

"LSPE" means the Laser and Surgical Procedures Examination administered by the NBEO.

"MME" means morphine milligram equivalent.

"NBEO" means the National Board of Examiners in Optometry.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

"Proctored session" means any surgery on a live patient or procedure performed on a model eye that is observed and evaluated by a proctor for the purpose of obtaining laser surgery certification pursuant to subdivision 4 b of 18VAC105-20-80.

"Proctoring" means an objective evaluation of an optometrist's clinical competence to perform laser surgery pursuant to § 54.1-3225 of the Code of Virginia.

"TMOD" means the treatment and management of ocular disease portion of the NBEO examination.

~~"TPA" means therapeutic pharmaceutical agents.~~

"TPA certification" means authorization by the Virginia Board of Optometry for an optometrist to treat diseases and abnormal conditions of the human eye and its adnexa and to prescribe and administer certain therapeutic pharmaceutical agents.

18VAC105-20-46. Treatment guidelines for TPA-certified optometrists.

A. TPA-certified optometrists may treat diseases and abnormal conditions of the human eye and its adnexa that may be treated with medically appropriate pharmaceutical agents as referenced in 18VAC105-20-47.

B. In addition, the following may be treated:

1. Glaucoma (excluding the treatment of congenital and infantile glaucoma). Treatment of angle closure shall follow the definition and protocol prescribed in subsection C of this section.
2. Ocular-related post-operative care in cooperation with patient's surgeon.
3. Ocular trauma to the above tissues as in subsection A of this section.
4. Uveitis.
5. Anaphylactic shock (limited to the administration of intramuscular epinephrine).

C. The definition and protocol for treatment of angle closure glaucoma shall be as follows:

1. As used in this chapter, angle closure glaucoma shall mean a closed angle in the involved eye with significantly increased intraocular pressure, and corneal microcystic edema;
2. Treatment shall be limited to the initiation of immediate emergency care with appropriate pharmaceutical agents as prescribed by this chapter;
3. Once the diagnosis of angle closure glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted immediately;
4. If there are no medical contraindications, an oral osmotic agent may be administered as well as an oral carbonic anhydrase inhibitor and any other medically accepted, Schedule III, IV, or VI; oral antiglaucomatic agent as may become available; and
5. Proper topical medications as appropriate may also be administered by the optometrist.

D. An oral Schedule VI immunosuppressive agent shall only be used when (i) the condition fails to appropriately respond to any other treatment regimen; (ii) such agent is prescribed in consultation with a physician; and (iii) treatment with such agent includes monitoring of systemic effects.

E. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02. Upon written request, the board may grant a one-time waiver of the

requirement for electronic prescribing, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

18VAC105-20-47. ~~Therapeutic pharmaceutical agents.~~ (Repealed.)

~~A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer, and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:~~

- ~~1. Oral analgesics — Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III, IV, and VI narcotic and nonnarcotic agents.~~
- ~~2. Topically administered Schedule VI agents:~~
 - ~~a. Alpha-adrenergic blocking agents;~~
 - ~~b. Alpha-adrenergic agonists;~~
 - ~~c. Cholinergic agonists;~~
 - ~~d. Anesthetic (including esters and amides);~~
 - ~~e. Anti-allergy (including antihistamines and mast-cell stabilizers);~~
 - ~~f. Anti-fungal;~~
 - ~~g. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);~~
 - ~~h. Anti-infective (including antibiotics and antivirals);~~
 - ~~i. Anti-inflammatory;~~
 - ~~j. Cycloplegics and mydriatics;~~
 - ~~k. Decongestants; and~~
 - ~~l. Immunosuppressive agents.~~
- ~~3. Orally administered Schedule VI agents:~~
 - ~~a. Aminocaproic acids (including antifibrinolytic agents);~~
 - ~~b. Anti-allergy (including antihistamines and leukotriene inhibitors);~~
 - ~~c. Anti-fungal;~~
 - ~~d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);~~
 - ~~e. Anti-infective (including antibiotics and antivirals);~~
 - ~~f. Anti-inflammatory (including steroidal and nonsteroidal);~~
 - ~~g. Decongestants; and~~
 - ~~h. Immunosuppressive agents.~~

~~B. Schedules I, II, and V drugs are excluded from the list of therapeutic pharmaceutical agents with the exception of controlled substances in Schedule II consisting of hydrocodone~~

Regulations

~~in combination with acetaminophen and gabapentin in Schedule V.~~

~~C. Over the counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed, or dispensed.~~

~~D. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02. Upon written request, the board may grant a one-time waiver of the requirement for electronic prescribing, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.~~

VA.R. Doc. No. R26-8286; Filed September 8, 2025, 2:35 p.m.

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322, 18VAC110-20-323).

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Effective Date: November 5, 2025.

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

Summary:

The amendments remove from regulatory text compounds placed in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) by Chapter 118 of the 2025 Acts of Assembly.

18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid.

a. N-ethyl 2-[5-nitro-2-[(4-propan-2-yloxyphenyl)methyl]benzimidazol-1-yl]ethanamine (other name: N-desethyl Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation.

b. 7-[(3-chloro-6-methyl-5,5-dioxo-1H-benzo[c][2,1]benzothiazepin-11-yl)amino]heptanoic acid (other name: Tianeptine), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Cannabimimetic agent. Ethyl 3,3-dimethyl-2-[(1-pent-4-enylindazole-3-carbonyl)amino]butanoate (other name: EDMB-4en-PINACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2025, unless enacted into law in the Drug Control Act.

B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following compounds expected to have hallucinogenic properties in Schedule I of the Drug Control Act:

1. 1-(3,5-Dimethoxy-4-propoxyphenyl)-2-propanamine (other names: 4-propoxy-3,5-DMA, 3C-P, 1-(3,5-Dimethoxy-4-propoxyphenyl)propan-2-amine), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

2. 2-(5-methoxy-1H-indol-3-yl)ethanamine (other names: 5-methoxytryptamine, 5-MeOT), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until August 28, 2025, unless enacted into law in the Drug Control Act.

C. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Compounds expected to have hallucinogenic properties:

a. 1-(1,3-benzodioxol-5-yl)-2-(isobutylamino)-1-pentanone (other name: N-isobutylpentylone), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

~~b. 1 (1,3 benzodioxyl 5-yl) 2 (tert butylamino) 1 pentanone (other name: N-tert butyl pentylone), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

~~c. 1 Phenyl N-propylcyclohexanamine (other names: N-(1-phenylcyclohexyl)propanamine, PCPr), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

~~2. Compound classified as a cannabimimetic agent. Methyl N-(1H-indazol-3-ylcarbonyl)-3-methyl-valinate (other name: MDMB-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

The placement of drugs listed in this subsection shall remain in effect until April 8, 2026, unless enacted into law in the Drug Control Act.

~~D. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:~~

~~1. The following compounds expected to have hallucinogenic properties:~~

~~a. 1-[(4-fluorophenyl)methyl]-4-methylpiperazine (other names: 4-fluoro-MBZP, 4-fluoro-methylbenzylpiperazine), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

~~b. 4-fluoro- α -pyrrolidinoisohexiophenone (other name: 4-fluoro- α -PiHP), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

~~c. 8-bromo-1-methyl-6-pyridin-2-yl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other name: pyrazolam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

~~2. The following cannabimimetic agent: Methyl 2-(1-butyl-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (other name: MDMB-BUTINACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

The placement of drugs listed in this subsection shall remain in effect until April 8, 2026, unless enacted into law in the Drug Control Act.

~~E. A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:~~

1. Compound expected to have depressant properties. 7-Bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one (other name: phenazepam), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

2. Cannabimimetic agent. Methyl N-[(5-methyl-1H-indazol-3-yl)carbonyl]-3-methyl-valinate (other name: MDMB-5Me-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until November 21, 2026, unless enacted into law in the Drug Control Act.

~~F. B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:~~

1. The following compounds classified as synthetic opioids:

a. 2-[(4-methoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)benzimidazole (other names: metonitazepyne, N-pyrrolidino metonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

b. 2-[2-[(4-ethoxyphenyl)methyl]-5-nitrobenzimidazol-1-yl]-N-ethylethanamine (other name: N-desethyl etonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

c. N-(2-methylphenyl)-N-[1-(2-phenethyl)piperidin-4-yl]propanamide (other name: ortho-methylfentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. The following compounds expected to have hallucinogenic properties:

a. [3-[2-(diethylamino)ethyl]-1H-indol-4-yl] acetate (other names: 4-acetoxy-N,N-diethyltryptamine; 4-acetoxy DET; 4-AcO-DET; ethacatin), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. 3-[2-(diethylamino)ethyl]-1H-indol-4-ol (other names: 4-hydroxy-N,N-diethyltryptamine; 4-hydroxy DET; ethocin), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

Regulations

c. 3-methylmethcathinone (other names: 3-MMC; metaphedrone; 2-(methylamino)-1-(3-methylphenyl)propan-1-one), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

3. The following compounds classified as cannabimimetic agents:

a. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1H-indazole-3-carboxamide (other name: ADB-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. N-cyclohexyl-2-(1-pentylindol-3-yl)acetamide (other names: cyclohexyl-PIATA, CH-PIACA, CH-PIATA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until November 21, 2026, unless enacted into law in the Drug Control Act.

~~G. C.~~ Pursuant to subsection E of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following compounds into Schedule I of the Drug Control Act to conform to federal scheduling changes:

1. Meta-fluorofentanyl (other name: N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide);
2. Meta-fluoroisobutyl fentanyl (other name: N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
3. Para-methoxyfentanyl fentanyl (other name: N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
4. 3-furanyl fentanyl (other name: N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-3-carboxamide);
5. 2',5'-dimethoxyfentanyl (other name: N-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-N-phenylpropionamide);
6. Isovaleryl fentanyl (other name: 3-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide);
7. Ortho-fluorofuranyl fentanyl (other name: N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
8. Para-methylcyclopropyl fentanyl (other name: N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide);
9. Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (other names: 4F-MDMB-BUTICA; 4F-MDMB-BICA);

10. 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one (other names: CUMYL-PEGACLONE; SGT-151);

11. Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (other names: 5F-EDMB-PICA; 5F-EDMB-2201); and

12. 2-(4-ethoxybenzyl)-5-nitro-1-(2-(piperidin-1-yl)ethyl)-1H-benzimidazole (other names: N-piperidinyl etonitazene; etonitazepipne).

18VAC110-20-323. Scheduling for conformity with federal law or rule.

Pursuant to subsection E of § 54.1-3443 of the Code of Virginia and in order to conform the Drug Control Act to recent scheduling changes enacted in federal law or rule, the board:

1. Replaces 4-anilino-N-phenethyl-4-piperidine (CASRN 21409-26-7) in Schedule II with 4-anilino-N-phenethylpiperidine (ANPP); and
2. Deletes Samidorphan from Schedule II; and
3. Adds zuranolone to Schedule IV.

VA.R. Doc. No. R26-8273; Filed September 8, 2025, 3:18 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-21. Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians (amending 18VAC110-21-141).

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

Effective Date: November 5, 2025.

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

Summary:

Pursuant to Chapter 168 of the 2025 Acts of Assembly, the amendments add training programs recognized by the Pharmacy Technician Certification Board or the National Healthcareer Association as accepted training programs for pharmacy technicians.

18VAC110-21-141. Requirements for pharmacy technician training.

A. Any person wishing to apply for registration as a pharmacy technician shall submit the application fee and an application on a form approved by the board.

B. To be registered as a pharmacy technician, an applicant shall provide evidence of the following:

1. Completion of a pharmacy technician training program that is:

- a. Jointly accredited by the ASHP and ACPE;
- b. An accredited training program operated through the Department of Education's Career and Technical Education Program;
- c. Operated through a federal agency or branch of the military; ~~or~~
- d. Accredited by an accreditation body approved by the board; or

e. Recognized by the Pharmacy Technician Certification Board or the National Healthcareer Association.

2. Successfully having passed a national certification examination administered by PTCB or NHA.

C. A pharmacy technician who has previously practiced in another United States jurisdiction may be eligible to obtain registration as a pharmacy technician upon documentation of previous practice and having passed a national certification examination administered by PTCB or NHA.

D. A person who successfully completed or was enrolled in a board-approved pharmacy technician training program but did not successfully pass a national examination prior to July 1, 2022, may be eligible to obtain registration as a pharmacy technician after successfully passing a national certification examination administered by PTCB or NHA and submitting to the board documentation of such completion or enrollment in a board-approved pharmacy technician training program and passing examination score.

E. A person who passed a national certification examination administered by PTCB or NHA but did not complete a board-approved pharmacy technician training program prior to July 1, 2022, may be eligible to obtain registration as a pharmacy technician upon documentation of having passed such examination.

VA.R. Doc. No. R26-8323; Filed September 8, 2025, 3:18 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-40. Regulations Governing Collaborative Practice Agreements (amending 18VAC110-40-20, 18VAC110-40-50).

Statutory Authority: §§ 54.1-2400 and 54.1-3300.1 of the Code of Virginia.

Effective Date: November 5, 2025.

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

Summary:

Pursuant to Chapter 117 of the 2025 Acts of Assembly, the amendments adjust collaborative practice agreements to clarify that a pharmacist's participation in a collaborative practice agreement includes prescribing medication.

18VAC110-40-20. Signed authorization for an agreement.

A. The signatories to an agreement shall be a practitioner involved directly in patient care and a pharmacist involved directly in patient care. Within the agreement, the pharmacist may designate alternate pharmacists, provided the alternates are involved directly in patient care at a single physical location where patients receive services.

B. An agreement shall only be implemented for an individual patient pursuant to an order from the practitioner for that patient. A patient who meets the criteria for inclusion in the category of patients whose care is subject to a collaborative agreement and who chooses to not participate in a collaborative procedure shall notify the ~~prescriber~~ practitioner of the patient's refusal to participate in such collaborative procedure.

1. The patient may decline to participate or withdraw from participation at any time.

2. The patient shall be informed by the practitioner or the pharmacist of the collaborative procedures that will be used pursuant to an agreement, and such discussion shall be documented in the patient record.

3. The practitioner and the pharmacist shall provide written disclosure to the patient of any contractual arrangement with any other party or any financial incentive that may impact one of the party's decisions to participate in the agreement.

18VAC110-40-50. Record retention.

A. Signatories to an agreement shall keep a copy of the agreement on file at their primary places of practice.

B. An order for a specific patient from the ~~prescribing practitioner authorizing that~~ authorizes the implementation ~~prescribing~~ of drug therapy management pursuant to the agreement shall be noted in the patient's medical record and kept on file by the pharmacist.

C. The patient's documented informed consent shall be retained by the practitioner in the patient record.

VA.R. Doc. No. R26-8336; Filed September 8, 2025, 3:19 p.m.

BOARD OF COUNSELING

Final Regulation

REGISTRAR'S NOTICE: The Board of Counseling 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC115-80. Regulations Governing the Registration of Qualified Mental Health Professionals (amending 18VAC115-80-65).

Statutory Authority: § 54.1-3521 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, fax (804) 527-4435, or email jaime.hoyle@dhp.virginia.gov.

Summary:

Pursuant to Chapter 146 of the 2025 Acts of Assembly, the amendment adds specific language stating that a licensed baccalaureate social worker shall not be required to register with the board or fulfill any additional training or education requirements to serve as a qualified mental health professional-trainee.

18VAC115-80-65. Requirements for registration as a qualified mental health professional-trainee.

A. A licensed baccalaureate social worker shall not be required to register with the board or fulfill any additional training or education requirements in order to serve as a QMHP-trainee.

B. Prior to receiving supervised experience toward registration as a QMHP, an applicant for registration as a QMHP-trainee shall provide a completed application, the fee prescribed in 18VAC115-80-20, and verification of the following:

1. Enrollment in or completion of a bachelor's degree program from an institution of higher education listed as accredited on the U.S. Department of Education College Accreditation database found on the U.S. Department of Education website or accredited by another accrediting agency recognized by the board;
2. Evidence of completion of 60 hours of didactic education in a program recognized or approved by the board; and
3. Verification of any other mental health or health professional license, certification, or registration ever held in Virginia or another jurisdiction. An applicant for registration as a QMHP-trainee shall have no unresolved disciplinary action. The board

will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.

VA.R. Doc. No. R26-8390; Filed September 8, 2025, 11:31 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Final Regulation

Title of Regulation: 18VAC120-30. Regulations Governing Polygraph Examiners (amending 18VAC120-30-10 through 18VAC120-30-290; repealing 18VAC120-30-20).

Statutory Authority: § 54.1-1802.1 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Marjorie King, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, 23233, telephone (804) 367-2785, fax (866) 430-1033, or email polygraph@dpor.virginia.gov.

Summary:

The amendments (i) expand the number of approved polygraphy training programs, (ii) remove the active practice requirement for polygraph examiner licensure by reciprocity, (iii) provide more flexibility in supervision of interns, (iv) conform two of the polygraph exam standards to industry benchmarks, and (v) allow electronic notification of licensee address changes to the department. Changes to the proposed regulation are technical or clarify that the department is the entity with authority to license individuals and that regulants must provide an email address for electronic communications from the department.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18VAC120-30-10. Definitions.

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

"Advisory board" or "board" means the Polygraph Examiner's Examiners Advisory Board.

"Polygraph examination" means the entire period of contact between a licensee and an examiner.

"Polygraph test" means the part of the polygraph examination during which the examinee is connected to a polygraph instrument which that is continuously recording the examinee's reactions to questions.

"Reciprocity" means that any individual holding a current license in another jurisdiction may obtain a Virginia polygraph [~~examiners~~ examiner] license, provided the requirements and standards under which the license was issued are substantially equivalent to those established in this chapter and the individual meets all other [~~board~~] requirements for licensure in Virginia.

"Reinstatement" means having a license restored to effectiveness after the expiration date on the license has passed. ~~When a licensee fails to renew his license within one calendar month after its expiration date, the licensee is required to apply for reinstatement of the license. Six months after the expiration date on the license, reinstatement is no longer possible and the applicant must reapply and requalify for licensure.~~

"Relevant question" means a question asked of an examinee during a polygraph test ~~which that~~ concerns an issue identified to the examinee during the pretest and ~~which that~~ is to be reported by the licensee to any other person.

"Renewal" means continuing the effectiveness of a license for another period of time.

18VAC120-30-20. Explanation of terms. (Repealed.)

~~Each reference in this chapter to a person shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural, and to natural persons and organizations.~~

18VAC120-30-30. Advisory board.

A. The Polygraph Examiners Advisory Board, consisting of eight members appointed by the director, ~~shall will~~ exercise the authority delegated by the director consistent with § 2.2-2100 A of the Code of Virginia and advise the department on any matters relating to the practice of polygraphy and the licensure of polygraph examiners in the Commonwealth of Virginia.

B. The advisory board ~~shall will~~ be composed of three Virginia licensed polygraph examiners employed by ~~law enforcement law-enforcement~~ agencies of the Commonwealth; or any of its political subdivisions; ~~three~~ Virginia licensed polygraph examiners employed in private industry; ~~and two~~ citizen members as defined in §§ 54.1-107 and 54.1-200 of the Code of Virginia. All members must be residents of the Commonwealth of Virginia.

C. Each member ~~shall will~~ serve a four-year term. No member ~~shall will~~ serve more than two consecutive four-year terms.

18VAC120-30-40. Basic qualifications for licensure and registration.

A. Every applicant to the [~~board~~ department] for a license ~~shall must~~ provide information on ~~his the~~ application establishing that the applicant meets the following qualifications:

1. The applicant is at least 18 years ~~old~~ of age.
2. ~~The applicant is in good standing as a licensed polygraph examiner in every jurisdiction where licensed.~~ The applicant must disclose if ~~he the applicant~~ has had a license as a polygraph examiner ~~which that~~ was suspended, revoked, or surrendered in connection with a disciplinary action or ~~which that~~ has been the subject of discipline in any

jurisdiction prior to applying for licensure in Virginia. At the time of application for licensure, the applicant must also disclose any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a polygraph examiner ~~and whether he has been previously licensed in Virginia as a polygraph examiner.~~

3. ~~The applicant is fit and suited to engage in the profession of polygraphy.~~ The applicant must disclose if ~~he the applicant~~ has been convicted in any jurisdiction of a felony or misdemeanor involving lying, cheating, stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession. ~~Any plea of not contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in the evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction. The department, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.~~

4. The applicant has disclosed the applicant's physical address [and email address]. A post office box is not acceptable [as a physical address].

5. ~~The nonresident applicant for a license has filed and maintained with the department an irrevocable consent for the department to serve as a service agent for all actions filed in any court in this Commonwealth.~~

6. 5. The applicant has signed, as part of the application, a statement certifying that the applicant has read and understands the Virginia polygraph [examiner's examiner] license law and regulations.

7. 6. The applicant has submitted an application, provided by the department, ~~which shall that must~~ include criminal history record information from the Central Criminal Records Exchange, with a report date within 30 days of the date the application is received by the department.

B. The department may (i) make further inquiries and investigations with respect to the qualifications of the applicant; or (ii) require a personal interview with the applicant; ~~or (iii) both.~~

C. The applicant ~~shall must~~ pass all parts of the polygraph [examiners examiner] licensing examination approved by the department within one year from examination approval in order to be eligible for a polygraph [examiners examiner] license.

18VAC120-30-50. Registration of polygraph examiner interns.

A. A polygraph examiner intern registration ~~shall will~~ be issued to applicants who fulfill the requirements of 18VAC120-30-40 and the following:

Regulations

1. The applicant has met the experience requirements by having a high school diploma or ~~its~~ equivalent and a minimum of five years of experience as an investigator or detective, or in a field acceptable to the department that demonstrates the ability to practice polygraphy.

a. The applicant will be credited two years of the five years of experience required in subdivision 1 of this subsection if ~~he~~ the applicant has an associate degree from an accredited college or university.

b. The applicant will be credited all five years of experience required in subdivision 1 of this subsection if ~~he~~ the applicant has a bachelor's degree from an accredited college or university.

2. The applicant has met the education requirements by either completing the required training in detection of deception at an accredited Polygraph Association Training Program or an equivalent polygraph school ~~approved by the department~~, or by submitting evidence of satisfactory completion of substantially equivalent training if the polygraph school at which the applicant received the training in the detection of deception is not approved by the department.

B. An intern registration ~~shall~~ will be valid for 12 months from the date of issue as indicated on the registration.

C. Each intern ~~shall~~ must be supervised by a licensed polygraph examiner who meets the qualifications in 18VAC120-30-60.

D. A polygraph intern may apply for an extension of a polygraph intern registration after the expiration of the initial intern registration for no more than one year by submitting the fee referenced in 18VAC120-30-100. Additional extensions will be allowed if the individual repeats the education requirements set forth in subdivision A 2 of 18VAC120-30-50.

18VAC120-30-55. Qualifications for licensure by examination.

A. A polygraph examiner license ~~shall~~ will be issued to applicants who fulfill the requirements of 18VAC120-30-40, 18VAC120-30-50, and subsections B and C of this section.

B. The applicant ~~shall~~ must have completed six months as a registered intern examiner under the ~~personal and direct on-premise~~ supervision of an examiner qualified under 18VAC120-30-60 who ~~shall~~ must supervise each and every polygraph examination administered by the intern. The internship need not be accomplished in Virginia. However, any internship conducted outside of Virginia must comply fully with this regulation. An intern ~~shall~~ may not be eligible to sit for the license examination until the intern's supervisor has submitted to the department a written statement that the internship has been satisfactorily completed. The department may waive the internship for any person who practiced polygraphy in a federal jurisdiction or the United States [~~Military~~ military].

C. Upon submission of the completed application and fee, the applicant will be considered for the examination required by 18VAC120-30-110. Upon passing such examination, the applicant ~~shall~~ will be granted ~~his~~ a polygraph [~~examiners~~ examiner] license provided the applicant is otherwise qualified.

18VAC120-30-60. Qualifications for licensed polygraph examiners to act as supervisors of polygraph interns.

Each supervisor for a registered intern examiner ~~shall~~ must be currently licensed and have held a valid Virginia [~~examiner's~~ examiner] license for ~~three~~ two years or submit evidence satisfactory to the department that ~~he~~ the supervisor has qualifications that are substantially equivalent to those required ~~herein~~ in this chapter.

18VAC120-30-70. Procedures for licensed polygraph examiners to certify the procedures to be used to supervise an intern during an internship.

~~A. Each licensee supervising an intern shall file with the application of the intern a description of the following:~~

~~1. The frequency and duration of contact between the licensee and the intern;~~

~~2. The procedures to be employed by the licensee in reviewing and evaluating the intern's performance; and~~

~~3. The polygraph technique(s) to be used.~~

~~B. The A. Each licensee supervising the an intern shall must~~ review the intern's charts for quality control and address any deficiencies found in the charts prior to the intern rendering an opinion or conclusion on any polygraph examination administered by the intern.

~~C. B.~~ In the event the licensed supervisor is unable to continue, any review of experience ~~shall~~ will be at the discretion of the board.

18VAC120-30-80. Qualifications for licensure by reciprocity.

An individual who is currently licensed as a polygraph examiner in another jurisdiction may obtain a Virginia license, provided the requirements and standards under which the license was issued are substantially equivalent to those in Virginia.

~~An individual applying for licensure by reciprocity shall have been a licensed examiner engaged in the practice of polygraphy for at least 12 consecutive months prior to application.~~

18VAC120-30-100. Fees.

A. All application fees for licenses and registrations are nonrefundable and ~~shall~~ will not be prorated. The date of receipt by the department is the date that will be used to determine whether or not the fee is on time.

B. Application and examination fees must be submitted with the application for licensure. All other fees are discussed in greater detail in later sections of this chapter.

~~C. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department.~~

~~D. 1. C.~~ The following fees listed in the table apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Application for [Examiner's <u>Examiner</u>] License by Examination	\$90 <u>\$200</u>	With application
Application for [Examiner's <u>Examiner</u>] License by Reciprocity	\$190	With application
Application for Intern Registration	\$75	With application
Application for Examiner's License by Examination	\$200	With application
Reexamination	\$200	With approval letter
Renewal	\$110	Up to the expiration date on the license
Reinstatement	\$150	From the expiration date to 24 calendar months after the expiration date on license

~~2. For renewal fees received on or before June 30, 2024, the fee shall be \$40.~~

18VAC120-30-110. Examinations.

All examinations required for licensure ~~shall~~ must be approved by the advisory board and provided by the department, a testing service acting on behalf of the advisory board, or another governmental agency or organization.

Applicants for licensure ~~shall~~ must pass a two-part licensing examination approved by the board, of which Part I is a written examination and Part II is an ~~Advisory Board Evaluation~~ advisory board evaluation. Applicants must pass the written examination in order to sit for the advisory board evaluation.

The applicant ~~shall~~ must follow all the rules established by the department with regard to conduct at the examination. Such rules ~~shall~~ include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the department with regard to conduct at the examination ~~shall~~ will be grounds for denial of application.

18VAC120-30-130. Procedures for renewal.

The department will [~~mail~~ send] a renewal [~~application form~~ notice] to the licensee [~~at the last known address of department record~~]. Failure to receive this notice ~~shall~~ does not relieve the licensee of the obligation to renew. Prior to the expiration date shown on the license, each licensee desiring to renew ~~his a~~ license must return to the department [~~all required forms and~~] the appropriate fee as referenced in 18VAC120-30-100. Any licensee who fails to submit the renewal payment on or prior to the expiration date ~~shall be required to~~ must apply for reinstatement.

18VAC120-30-160. Qualifications for renewal.

A. Applicants for renewal of a license ~~shall~~ must continue to meet the standards for entry as set forth in subdivisions A 2 ~~through A 5, A 3, and A 4~~ of 18VAC120-30-40.

B. The department may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline a licensee. The licensee has a right to ~~appeal~~ request further review of any such action by the department under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

C. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order ~~shall~~ will result in delaying or withholding services provided by the department, such as renewal, reinstatement, ~~or~~ processing of a new application, ~~or~~ exam administration.

18VAC120-30-170. Reinstatement required.

A. Any licensee who fails to renew ~~his a~~ license on or prior to the expiration date on the license ~~shall be required to~~ must apply for reinstatement and submit the proper fee referenced in 18VAC120-30-100.

B. Twenty-four calendar months after the expiration date on the license, reinstatement is no longer possible. To resume practice as a polygraph examiner, the former licensee must apply as a new applicant for licensure, meeting all ~~then current~~ then-current entry requirements at the time of reapplication, including retaking an examination.

C. Any examiner activity conducted subsequent to the expiration of the license may constitute unlicensed activity and may be subject to prosecution under § 54.1-111 of the Code of Virginia.

Regulations

18VAC120-30-180. Qualifications for reinstatement.

A. Applicants for reinstatement of a license ~~shall~~ must continue to meet the standards for entry as set forth in subdivisions A 2 ~~through A 5~~, A 3, and A 4 of 18VAC120-30-40.

B. The department may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline a licensee. The licensee has a right to ~~appeal~~ request further review of any such action by the department under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

C. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order ~~shall~~ will result in delaying or withholding services provided by the department, such as renewal, reinstatement, processing of a new application, or examination administration.

18VAC120-30-190. Status of a license during the period before reinstatement.

A. When a license is reinstated, the licensee ~~shall~~ will continue to have the same license number and ~~shall~~ be assigned an expiration date two years from the previous expiration date of the license.

B. A licensee who reinstates ~~his~~ a license ~~shall~~ will be regarded as having been continually licensed without interruption. Therefore, the licensee ~~shall~~ will remain under the disciplinary authority of the department during this entire period. Nothing in this chapter ~~shall~~ divest the department of its authority to discipline a licensee for a violation of the law or regulations during the period of licensure.

18VAC120-30-200. Polygraph examination procedures.

~~A. Each licensed polygraph examiner and registered polygraph examiner intern must post, in a conspicuous place for the examinee, his license or registration, or a legible copy of his license or registration to practice in Virginia.~~

~~B. A.~~ The examiner ~~shall~~ must provide the examinee with a written explanation of the provisions of 18VAC120-30-200, 18VAC120-30-210, and 18VAC120-30-220 at the beginning of each polygraph examination.

~~C. B.~~ The examinee may request a recording of the polygraph examination being administered. Each examiner ~~shall~~ must maintain recording equipment and recording media adequate for such recording. The examiner ~~shall~~ must safeguard all examination recordings with the records ~~he~~ the examiner is required to keep pursuant to 18VAC120-30-230. All recordings ~~shall~~ must be made available to the department, the examinee, or the examinee's attorney upon request. The examiner may charge the examinee a fee not to exceed \$35 only if the examinee requests and receives a copy of an examination.

~~D. C.~~ The examinee ~~shall be~~ is entitled to a copy of all portions of any written report pertaining to ~~his~~ the examinee's

examination that is prepared by the examiner and provided to any person or organization. The examinee ~~shall~~ must make ~~his~~ this request in writing to the examiner. The examiner ~~shall~~ must comply within 10 business days of providing the written report to any person or organization or receiving the examinee's written request, whichever occurs later. The examiner may collect not more than \$1.00 per page from the examinee for any copy provided.

~~E. D.~~ The provisions of subsections A, B, and C, ~~and D~~ of this section ~~shall~~ are not be applicable to any examination conducted by or on behalf of the Commonwealth or any of its political subdivisions when the examination is for the purpose of preventing or detecting crime or the enforcement of penal laws. However, examiners administering examinations as described in this section ~~shall~~ must comply with subsection B ~~A~~ of this section through a verbal explanation of the provisions of 18VAC120-30-210 and 18VAC120-30-220.

~~F. E.~~ The examiner must disclose to the examinee that the examination is subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

18VAC120-30-210. Examination pretest procedure.

A. Prior to administering any polygraph test, the examiner ~~shall~~ must inform the prospective examinee of all the issues to be covered during the polygraph examination and of all the items to be reported by the examiner to any other person.

B. The examiner ~~shall~~ must obtain written permission from the prospective examinee to administer the examination after fulfilling the requirements of 18VAC120-30-200, and before proceeding further with the administration of the examination.

18VAC120-30-220. Examination standards of practice.

A. The examiner ~~shall~~ must comply with the following standards of practice and ~~shall~~ disclose to each examinee the provisions of this subsection and ~~shall~~ must not proceed to examine or continue the examination if it is or becomes apparent to the examiner that the examinee does not understand any of these disclosures:

1. All questions to be asked during the polygraph ~~test(s)~~ test ~~shall~~ must be reduced to writing and read to the examinee.
2. The examinee or the examiner may terminate the examination at any time.
3. If the examination is within the scope of § 40.1-51.4:3 of the Code of Virginia, the examiner ~~shall~~ must explain the provisions of that statute to the examinee.
4. No questions ~~shall~~ may be asked concerning any examinee's lawful religious affiliations, lawful political affiliations, or lawful labor activities. This provision ~~shall~~ does not apply to any such affiliation ~~which~~ that is inconsistent with the oath of office for public law-enforcement officers.

5. The examinee ~~shall~~ must be provided the full name of the examiner and the name, address, and telephone number of the department.

6. During no part of a preemployment polygraph examination ~~shall~~ may the examiner ask questions concerning an examinee's sexual preferences or sexual activities, except as in accordance with § 40.1-51.4:3 or 54.1-1806 of the Code of Virginia.

B. An examiner ~~shall not~~ must perform no more than ~~12~~ five polygraph examinations in any 24-hour period.

C. An examiner ~~shall not~~ must ask no more than 16 questions per chart on a single polygraph test. Nothing in this subsection ~~shall prohibit~~ prohibits an examiner from conducting more than one polygraph test during a polygraph examination.

D. An examiner ~~shall~~ must allow on every polygraph test a minimum time interval of ~~40~~ 20 seconds between the examinee's answer to a question and the start of the next question.

E. An examiner ~~shall~~ must record, at a minimum, the following information on each polygraph test chart produced:

1. The name of the examinee;
2. The date of the examination;
3. The time that each test begins;
4. The examiner's ~~initials~~ name;
5. Any adjustment made to component sensitivity;
6. The point at which each question begins and each answer is given;
7. Each question number; and
8. Each answer given by the examinee.

F. An examiner ~~shall~~ must render only three evaluations of polygraph tests:

1. ~~Deception indicated~~ Significant response;
2. ~~No deception indicated~~ significant response; or
3. Inconclusive.

An examiner may include in ~~his~~ the examiner's report any information revealed by the examinee during the polygraph examination.

Nothing in this section ~~shall prohibit~~ prohibits an examiner from explaining the meaning of the above evaluations.

G. An examiner ~~shall~~ must not render a verbal or written report based upon polygraph test chart analysis without having conducted at least two polygraph charts. Each relevant question ~~shall~~ must have been asked at least once on each of at least two polygraph charts.

H. An examiner may make a hiring or retention recommendation for the examiner's employer, provided the

hiring or retention decision is not based solely on the results of the polygraph examination.

18VAC120-30-230. Records.

The licensed polygraph examiner or registered polygraph examiner intern ~~shall~~ must maintain the following for at least one year from the date of each polygraph examination:

1. Polygraphic charts;
2. Questions asked during the examination;
3. A copy of the results and the conclusions drawn;
4. A copy of every written report provided in connection with the examination; and
5. Electronic recordings of examinations made in compliance with subsection ~~E~~ B of 18VAC120-30-200.

18VAC120-30-240. Prohibited acts.

The department may fine, deny, suspend, or revoke any license or registration, or deny or withdraw school approval upon a finding that the applicant, licensee, registrant, or school:

1. Has presented false or fraudulent information when applying for any license or registration, renewal of license or registration, or approval;
2. Has violated, aided, or abetted others to violate [~~Chapters Chapter~~] 1 (§ 54.1-100 et seq.) ~~through, 2 (§ 54.1-200 et seq.), or 3 (§ 54.1-300 et seq.)~~ of Title 54.1 or §§ 54.1-1800 through 54.1-1806 of the Code of Virginia, or of any other statute applicable to the practice of the profession ~~herein regulated by this chapter~~, or of any provisions of this chapter;
3. Has been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of any felony or non-marijuana misdemeanor. Review of convictions ~~shall will~~ be subject to the requirements of § 54.1-204 of the Code of Virginia. ~~Any pleas of nolo contendere shall be considered a conviction for the purposes of this subsection. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where the conviction occurred shall be forwarded to the board within 30 days of entry and shall be admissible as prima facie evidence of such conviction;~~
4. Has made, in the course of soliciting for or advertising a business or service licensed under ~~§ 54.1-1802~~ § 54.1-1802.1 of the Code of Virginia, a false, deceptive, or misleading statement orally, in writing, or in printed form;
5. Has allowed one's license or registration to be used by anyone else;
6. Has failed, within a reasonable period of time of 21 days, to provide any records or other information requested or demanded by the department;

Regulations

7. Has displayed professional incompetence or negligence in the performance of polygraphy;

8. Has violated any provision of 18VAC120-30-220;

9. Has failed to maintain for a period of one year from the date of each administered polygraph examination a complete and legible copy of all documents relating to the polygraph examination including examination questions, results, conclusions drawn, and written or electronic reports;

10. Has failed to inform the ~~board department~~ in writing within 30 days that the regulant, school's owner, or instructor has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or ~~of a Class 1 misdemeanor or any non-marijuana misdemeanor conviction for activities carried out while engaged in the practice of polygraphy;~~

11. Has refused or failed, upon request, to produce to the ~~board department~~, or any of its ~~the department's~~ agents, any document, book, or record, or copy of it ~~any document, book, or record~~ in the regulant's or ~~school's~~ school owner's possession concerning all records for which the regulant, ~~school's~~ school owner, or instructor is required to maintain; or

12. Has failed to respond to an investigator or provides false, misleading, or incomplete information to an investigator seeking information in the investigation of a complaint filed with the ~~board department~~ against the regulant, ~~school's~~ school owner, or instructor.

18VAC120-30-250. Maintenance of license.

A. Notice in writing ~~shall~~ must be given to the department in the event of any change of name [~~or,~~] address [~~, or email address~~]. Such notice ~~shall~~ must be ~~mailed~~ made to the department within 30 days of the change of the name or location. The department ~~shall~~ will not be responsible for the licensee's or registrant's failure to receive notices, communications ~~and,~~ or correspondence caused by the licensee's or registrant's failure to promptly notify the department in writing of any change of name or address.

B. All licensees or registrants ~~shall~~ must operate under the name in which the license or registration was issued.

18VAC120-30-260. Approval of polygraph school curriculum.

Schools seeking approval of ~~their~~ a polygraph curriculum ~~shall~~ must submit the application for approval of a polygraph school to the department for consideration. The application ~~shall~~ must include:

1. The name and address of the school;
2. The name and address of the proprietor, partnership, corporation, or association if different from the school name;
3. The owners of the school;

4. The names and qualifications of the instructors ~~which shall be indicated on instructor qualifications form; and in a format approved by the advisory board; and~~

5. The subject courses and the number of instruction hours assigned to each.

18VAC120-30-280. Instructor minimum requirements.

A. Any person teaching the subjects required by this ~~regulation shall~~ chapter must meet the following minimum requirements for the subjects to be taught:

1. Legal Aspects of Polygraph Examination. The instructor must be licensed as an attorney in a state or jurisdiction of the United States.

2. Polygraph Interrogation. The instructor must have five years of experience in the field of interrogation.

3. Physiological Aspects of Polygraphy. The instructor must have a degree in a ~~health-related~~ health-related science with coursework in physiology from an accredited institution of higher learning.

4. Psychological Aspects of Polygraphy. The instructor must have a degree in psychology from an accredited institution of higher learning.

5. All other courses ~~shall~~ must be taught by individuals having at least five years of experience as a polygraph examiner.

B. The department may make exception to the above qualifications when an instructor is otherwise qualified by education or experience and provides such evidence in writing to the department.

18VAC120-30-290. Amendments and changes.

Any change in the information provided by ~~the~~ a school to the department as required by 18VAC120-30-260, 18VAC120-30-270, or 18VAC120-30-280 ~~shall~~ must be reported to the department in writing within 30 days of such an occurrence.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

[FORMS (18VAC120-30)

~~Internship Completion and License Exam Form, A456-16EXINT v5 (rev. 10/13)~~

~~License/Intern Registration Application, A456-16LIC v3 (rev. 8/13)~~

~~Polygraph School Curriculum Approval Application, A456-16SCHL v3 (rev. 8/13)~~

~~Supervisor Endorsement Form, A456-16SEND-v3 (rev. 8/13)~~

~~Commonwealth of Virginia Polygraph Examiners License Examination, A543-16CIB-v10 (eff. 10/13)~~

[Internship Completion and License Exam Form, A456-16EXINT-v6 \(rev. 11/2025\)](#)

[License/Intern Registration Application, A456-16LIC-v6 \(rev. 11/2025\)](#)

[Polygraph School Curriculum Approval Application, A456-16SCHL-v4 \(rev. 11/2025\)](#)

[Supervisor Endorsement Form, A456-16SEND-v4 \(rev. 11/2025\)](#)

[Polygraph Examiners Universal License Recognition Application, A456-1601ULR-v2 \(rev. 11/2025\)](#)

VA.R. Doc. No. R24-7741; Filed September 10, 2025, 4:47 p.m.

REAL ESTATE BOARD

Final Regulation

REGISTRAR'S NOTICE: The Real Estate Board 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-10, 18VAC135-20-30, 18VAC135-20-60, 18VAC135-20-70, 18VAC135-20-165, 18VAC135-20-225, 18VAC135-20-260).

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 5, 2025.

Agency Contact: Anika Coleman, Executive Director, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, fax (866) 826-8863, or email reboard@dpor.virginia.gov.

Summary:

Pursuant to Chapters 122 and 129, 463 and 466, 479 and 495, and 505 of the 2025 Acts of Assembly, the amendments (i) add definitions of "brokerage relationship" and "brokerage services"; (ii) replace the term "moral turpitude" with "fraudulent and dishonest acts"; (iii) provide that licensees may transfer individual licenses between branch offices within the same real estate firm or sole proprietorship, as well as to or from the primary place of business or any branch office under the same firm or sole proprietorship, without incurring any transfer fees; (iv) expand the permitted activities for unlicensed employees of licensed real estate brokers to

include accepting security deposits, periodic rent, and other payments as specified in the rental agreement and accepting and signing broker-approved rental agreements, state or federal required disclosures, and any documents necessary to comply with Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia related to rental transactions; and (v) stipulate that real estate broker immunity from enforcement actions does not apply when an unlicensed employee negotiates the terms of a rental agreement, which is prohibited under § 54.1-2103 of the Code of Virginia.

18VAC135-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context:

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in § 54.1-2100 of the Code of Virginia.

"Actively engaged" means active licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in § 54.1-2100 of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

"Actively engaged in the brokerage business" means anyone who holds an active real estate license.

"Another state" means the same as the term is defined in § 54.1-205 of the Code of Virginia.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Branch office" means the same as the term is defined in § 54.1-2100 of the Code of Virginia.

"Brokerage relationship" means the same as the term is defined in § 54.1-2130 of the Code of Virginia.

"Brokerage services" means the same as the term is defined in § 54.1-2130 of the Code of Virginia.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by § 54.1-2130 of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), ~~which that~~ is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

Regulations

"Inactive status" means any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not active with a firm or sole proprietorship, and who is not performing any of the activities defined in §§ 54.1-2100 and ~~54.1-2101~~ of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means real estate brokers and salespersons as defined in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or real estate firms.

"Neighboring state" means the same as the term is defined in § 54.1-205 of the Code of Virginia.

"Place of business" means the same as the term is defined in § 54.1-2100 of the Code of Virginia.

"Principal broker" means the individual broker who shall be designated by each firm to ensure compliance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia and this chapter and to receive communications and notices from the board that may affect the firm or any licensee active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees. The principal broker shall have signatory authority on all escrow accounts maintained by the firm.

"Principal to a transaction" means a party to a real estate transaction, including a seller or buyer, landlord or tenant, optionor or optionee, or licensor or licensee. For the purposes of this chapter, the listing or selling broker, ~~or both,~~ are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, limited liability company, partnership, or association, who is trading under the individual's name or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

"Supervising broker" means (i) the individual broker who shall be designated by the principal broker to supervise the provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or real estate teams or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in § 54.1-2130 of the Code of Virginia.

18VAC135-20-30. Qualifications for licensure.

Every applicant to the Real Estate Board for an individual salesperson's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson ~~which that~~ was suspended, revoked, or surrendered in connection with a disciplinary action or ~~which that~~ has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. The applicant shall be in compliance with all the terms of all board orders, including ~~but not limited to~~ paying imposed monetary penalties and costs, plus any accrued interest and other fees, and completing imposed education.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall submit to fingerprinting and shall disclose the following information:

- a. All misdemeanor convictions involving ~~moral turpitude~~ fraudulent and dishonest acts, sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and
- b. All felony convictions during ~~his~~ the applicant's lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall be at least 18 years ~~old~~ of age.

6. The applicant shall have a high school diploma or its equivalent.

7. The applicant, within 12 months prior to submitting a complete application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board.

8. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with

all procedures established with regard to conduct at the examination may be grounds for denial of application.

9. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration by the board.

18VAC135-20-60. Qualifications for licensure by reciprocity.

An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have a high school diploma or its equivalent.
3. The applicant shall have received the salesperson's or broker's license by virtue of having passed in the jurisdiction of licensure a written examination deemed to be substantially equivalent to the Virginia examination.
4. The applicant shall sign a statement verifying that the applicant has read and understands the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.
5. The applicant, within 12 months prior to submitting a complete application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.
6. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established by the board with regard to conduct at the examination may be grounds for denial of application.
7. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. The applicant shall be in compliance with all the terms of all board orders, including paying imposed monetary penalties and costs, plus any accrued interest and other fees, and completing imposed education.
8. At the time of application for a salesperson's license, the applicant must have met educational requirements that are substantially equivalent to those required in Virginia. At the time of application for a broker's license, the applicant must have met educational requirements that are substantially equivalent to those required in Virginia, and the applicant must have been actively engaged as defined by 18VAC135-

20-10 for 36 of the preceding 48 months. The broker applicant's experience must be verified by an individual who has direct knowledge of the applicant's activities as defined in § 54.1-2100 of the Code of Virginia. These requirements may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

9. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

10. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall submit to fingerprinting and shall disclose the following information:

- a. All misdemeanor convictions involving ~~moral turpitude~~ fraudulent and dishonest acts, sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and
- b. All felony convictions during the applicant's lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

11. Applicants for licensure who do not meet the requirements set forth in subdivisions 7 and 10 of this section may be approved for licensure following consideration by the board.

18VAC135-20-70. Activation or transfer of license.

A. Any inactive licensee may activate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. A licensee who submits an activate application to the board shall not conduct business with the real estate firm or sole proprietorship set forth in the application until the application is processed and the license is issued by the board. Continuing education pursuant to § 54.1-2105.03 of the Code of Virginia shall be completed within two years prior to activation of a license when the license has been inactive for more than 30 days. Any licensee who has not been active with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the existing prelicense educational requirements.

B. Any licensee may transfer from one licensed real estate firm or sole proprietorship to another by completing and submitting to the board a transfer application and the fee as set forth in 18VAC135-20-80. The transfer application shall include the signature of the new principal broker or supervising broker with signature authority who will be responsible for the licensee's real estate activities and shall be effective upon the principal broker or supervising broker's execution of the

Regulations

transfer application. For the transfer of a license between branch offices within the same licensed real estate firm or sole proprietorship, including from such firm's or sole proprietorship's primary place of business to one of its branch offices, or from a branch office to another branch office under the same primary place of business, no fee will be charged.

18VAC135-20-165. Duties of supervising broker.

Each place of business, each branch office, and each real estate team shall be supervised by a supervising broker. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office or real estate team. The supervising broker may designate another broker to assist in administering the provisions required by this section, but such designation does not relieve the supervising broker of responsibility for the supervision of the acts of all licensees assigned to the branch office or real estate team. Factors to be considered in determining whether the supervision is reasonable and adequate include the following:

1. The availability of the supervising broker to all licensees under the supervision of the broker to review and approve all documents, including leases, contracts affecting the firm's clients, brokerage agreements, and advertising;
2. The availability of training and written procedures and policies that provide, without limitation, clear guidance in the following areas:
 - a. Proper handling of escrow deposits;
 - b. Compliance with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;
 - c. Advertising;
 - d. Negotiating and drafting of contracts, leases, and brokerage agreements;
 - e. Use of unlicensed individuals;
 - f. Agency or independent contractor relationships;
 - g. Distribution of information on new or changed statutory or regulatory requirements;
 - h. Disclosure of matters relating to the condition of the property; and
 - i. Such other matters as necessary to ~~assure~~ ensure the competence of licensees to comply with this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia;
3. The availability of the supervising broker ~~in a timely manner~~ to supervise the management of the brokerage services in a timely manner;
4. The supervising broker ensures the brokerage services are carried out competently and in accordance with the

provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia;

5. The supervising broker undertakes reasonable steps to ensure compliance by all licensees assigned to the branch office, including ensuring the licensees have an active, current license;
6. The supervising broker undertakes reasonable steps to ensure only licensees undertake activities requiring a license, including:
 - a. Show property;
 - b. Hold an open house;
 - c. Answer questions on listings, title, financing, closing, contracts, brokerage agreements, and legal documents;
 - d. Discuss, explain, interpret, or negotiate a contract, listing, lease agreement, or property management agreement with anyone outside the firm; and
 - e. Negotiate or agree to any commission, commission split, management fee, or referral fee.
7. The supervising broker shall provide adequate supervision over the unlicensed employees or assistants under the supervision of a broker as they perform the following permitted activities:
 - a. Perform general clerical duties, including answering the phones, responding by electronic media, and providing information shown on the listing;
 - b. Submit listings and changes to MLS;
 - c. Follow up on loan commitments after contracts have been ratified;
 - d. Have keys made for listings;
 - e. Compute commission checks;
 - f. Place signs on properties;
 - g. Act as a courier service;
 - h. Schedule appointments;
 - i. Record and deposit earnest money deposits, ~~security deposits, and advance rents~~;
 - j. Accept security deposits, periodic rent, and other payments as contracted for in a rental agreement;
 - k. Prepare contract forms for approval of the licensee and supervising broker;
 - ~~k.~~ l. Accept and sign broker-approved rental agreements, state or federal required disclosures, and any documents required for compliance with Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 related to a rental transaction;
 - ~~m.~~ n. Prepare promotional materials and advertisements for approval of the licensee and supervising broker;
 - ~~n.~~ o. Assemble closing documents;
 - ~~o.~~ p. Obtain required public information from governmental entities;

- ~~n. p.~~ Monitor license and personnel files;
- ~~o. q.~~ Order routine repairs as directed by licensee;
- ~~p. r.~~ Receive compensation for their work at a predetermined rate that is not contingent upon the occurrence of a real estate transaction; and
- ~~q. s.~~ Perform any other activities undertaken in the regular course of business for which a license is not required;.

8. If a supervising broker is located more than 50 miles from the place of business or the branch office and there are licensees who regularly conduct business assigned to the branch office or at the place of business, the supervising broker must certify in writing on a quarterly basis on a form provided by the board that the supervising broker complied with the requirements of this section;

9. The supervising broker must maintain the records required in this section for three years. The records must be furnished to the board's agent upon request;

10. The supervising broker ensures that affiliated real estate teams or business entities are operating in accordance with the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia; and

11. The supervising broker ensures that all brokerage agreements include the name and contact information of the supervising broker.

18VAC135-20-225. Audits.

A. Procedures for voluntary compliance, self audit, or third-party audit; broker immunity.

1. A principal broker or supervising broker may conduct, or may have another person conduct, an audit of the practices, policies, and procedures of his firm or sole proprietorship in accordance with § 54.1-2111.1 of the Code of Virginia. The methods and findings of the audit shall be documented as described in this subsection.

2. A principal broker or supervising broker shall notify the board in writing within 30 days following the conclusion of a self audit, or within 30 days from the receipt of the final report of a third-party audit, of any matter he believes to constitute noncompliance with the provisions of Real Estate Board regulations or law. The principal broker or supervising broker shall also submit (i) a statement that such noncompliance has been remediated or (ii) a plan to correct such noncompliance within 90 days. Failure to comply with these requirements may result in loss of immunity from regulatory enforcement action.

3. A principal broker or supervising broker shall sign and date any report made pursuant to subdivision 2 of this subsection. Such report, properly submitted, shall provide immunity from enforcement against the principal broker or supervising broker by the board for the matters reported ~~therein in the report.~~

4. Immunity from enforcement action provided by this section shall not apply if the noncompliance with provisions of Real Estate Board regulations or law by the principal broker or supervising broker was intentional or was the result of gross negligence by the principal broker or supervising broker, including any actions by an unlicensed employee negotiating the provisions of a rental agreement as prohibited under § 54.1-2103 C of the Code of Virginia.

5. Immunity from enforcement action provided by this section shall apply only to the principal broker and supervising broker who conduct an audit and submit a voluntary compliance plan in accordance with this section and shall not extend to any other broker or salesperson who may not be in compliance with Real Estate Board regulations or law.

6. Failure to complete the voluntary compliance program within 90 days from the date of plan submission shall result in the loss of immunity from regulatory enforcement action. Repeated instances of a violation found as a result of an audit that was subject to the voluntary compliance program may be deemed by the board to constitute a failure to complete the prior voluntary compliance program.

B. Procedures for mandatory audit.

1. A principal broker or supervising broker shall conduct or have a third party conduct an audit at least once during each license term in accordance with § 54.1-2106.2 of the Code of Virginia. Such audit shall be documented on a form developed by the board.

2. In conducting an audit of practices, policies, and procedures of the firm or sole proprietorship, the principal broker or supervising broker or a third party shall examine and document all matters regarding the compliance by the firm or sole proprietorship with law and regulation regarding:

- a. Proper handling of escrow deposits and maintenance of a complete record of financial transactions;
- b. Compliance with federal and state fair housing laws and regulations if the firm or sole proprietorship engages in residential brokerage, residential leasing, or residential property management;
- c. Advertising in all forms and media;
- d. Negotiation and drafting of contracts, leases, and brokerage agreements;
- e. Use of unlicensed individuals;
- f. Agency or independent contractor relationships;
- g. Distribution of information on new or changed statutory or regulatory requirements;
- h. Proper documentation of required disclosures; and
- i. Such other matters as necessary to ~~assure~~ ensure the competence of licensees to comply with this chapter and

Regulations

Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.

3. If at the conclusion of a mandatory audit the principal broker or supervising broker or third party believes there is noncompliance with the provisions of the Real Estate Board regulations or law, the principal broker or supervising broker may ~~avail himself of~~ use the procedures for voluntary compliance described in subsection A of this section.

Upon request by any investigator, or by another agent of the board, a broker shall cooperate in the provision of records and documents pursuant to 18VAC135-20-240 within 10 days of receipt of the request, and for other requests by the board and its agents pursuant to 18VAC135-20-250, within 21 days of receipt.

18VAC135-20-260. Prohibited acts.

The following are prohibited acts:

1. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license;
2. Holding more than one license as a real estate broker or salesperson in Virginia, except as provided in this chapter;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Signing an experience verification form without direct supervision or actual knowledge of the applicant's activities as defined in § 54.1-2100 of the Code of Virginia or unreasonably refusing to sign an experience verification form;
6. Having been convicted or found guilty regardless of the manner of adjudication in any jurisdiction of the United States of a misdemeanor involving ~~moral turpitude~~ fraudulent and dishonest acts, sexual offense, non-marijuana drug distribution, or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision;
7. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 6 of this section;
8. Having had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction;

9. Failing to inform the board in writing within 30 days of a disciplinary action as stated in subdivision 8 of this section;

10. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States, including Title VIII of the Civil Rights Act of 1968 (82 Stat. 73) or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed;

11. Actions constituting failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, including the following:

- a. A principal broker or supervising broker failing to ensure proper supervision and accountability over the firm's day-to-day financial dealings, escrow account, and daily operations;
- b. A broker failing to disburse funds from an escrow account according to the regulations or failing to properly retain documents relating to the basis for disbursement;
- c. A broker failing to ensure the licensees for whom the broker has oversight responsibility hold active licenses while practicing real estate;
- d. A broker failing to provide accurate and timely reports to the board about a licensee's compliance with the board's laws and regulations;
- e. A broker failing to have signatory authority on all accounts;
- f. A broker failing to account for or remit any moneys coming into a licensee's possession that belong to another;
- g. A licensee failing to submit to the broker in a timely manner, all earnest money deposits, contracts, listing agreements, deeds of lease, or any other documents for which the broker has oversight responsibility;
- h. A licensee negotiating leases for a third party through an unlicensed firm or without a principal broker;
- i. A licensee operating an unlicensed firm or acting as a principal broker;
- j. A licensee practicing real estate with an inactive or expired license;
- k. A licensee knowingly providing the broker with an earnest money deposit check from an account with insufficient funds;
- l. A licensee allowing unsupervised access to a home without the owner's authorization;
- m. A licensee failing to inform the broker of a transaction; and
- n. A licensee submitting unauthorized altered copies of a contract to the broker; and

12. Actions constituting engaging in improper, fraudulent, or dishonest conduct, including the following:

- a. A licensee attempting to divert commission from the firm or sole proprietorship and direct payment to a licensee or an unlicensed individual who is not a party to the transaction;
- b. A licensee fabricating or altering any document with the intent to mislead;
- c. A licensee signing any documents on a client's behalf without first obtaining a client's proper written permission or authorization to sign said documents on the client's behalf;
- d. A licensee making an earnest money deposit payable to himself or negotiating the check without written authority;
- e. A licensee misrepresenting ownership of a property;
- f. A licensee submitting copies of the same earnest money deposit check for inclusion with multiple offers;
- g. A licensee entering into agreements to be compensated for real estate services while the licensee's license is inactive;
- h. A licensee representing in offers that the licensee received the earnest money deposit when the licensee has not or knows the check is worthless; and
- i. A licensee misrepresenting who is holding the earnest money deposit.

VA.R. Doc. No. R26-8249; Filed September 10, 2025, 7:58 a.m.

BOARD OF SOCIAL WORK

Final Regulation

Title of Regulation: 18VAC140-30. Regulations Governing the Practice of Music Therapy (adding 18VAC140-30-10 through 18VAC140-30-110).

Statutory Authority: §§ 54.1-2400 and 54.1-3709.2 of the Code of Virginia.

Effective Date: December 1, 2025.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4441, fax (804) 977-9915, or email jaime.hoyle@dhp.virginia.gov.

Summary:

The action establishes regulations governing the practice of music therapy pursuant to Chapters 103 and 233 of the 2020 Acts of Assembly, which require the board to adopt regulations establishing a regulatory structure to license music therapists in the Commonwealth and establish an advisory board to assist the board in this process. The regulation provides for (i) licensure requirements, (ii) a fee structure, (iii) renewal or reinstatement of a license, (iv) continuing competency, (v) supervision of persons in training, and (vi) standards of practice. Changes to the proposed regulation restructure the regulatory text to consolidate and streamline similar requirements and remove text that is redundant to statute or unnecessary.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Chapter 30

Regulations Governing the Practice of Music Therapy

18VAC140-30-10. Definitions.

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in §§ 54.1-3700 and 54.1-3709.1 of the Code of Virginia:

"Board"

"Music therapist"

"Music therapy"

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

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a music therapist.

"CBMT" means the Certification Board for Music Therapists.

"MT-BC" means a Music Therapist-Board Certified, a credential issued by the CBMT after completing the academic and clinical training requirements of the American Music Therapy Association and passing a national examination.

18VAC140-30-20. Fees required by the board.

A. The board has established the following fees applicable to licensure as a music therapist:

<u>Initial licensure: Application processing and initial licensure</u>	<u>\$100</u>
<u>Active annual license renewal</u>	<u>\$55</u>
<u>Inactive annual license renewal</u>	<u>\$30</u>
<u>Late renewal</u>	<u>\$20</u>
<u>Duplicate license</u>	<u>\$15</u>
<u>Verification of licensure to another jurisdiction</u>	<u>\$25</u>
<u>Reinstatement of a lapsed license</u>	<u>\$120</u>
<u>Replacement of or additional wall certificate</u>	<u>\$25</u>
<u>Returned check or dishonored credit card or debit card</u>	<u>\$50</u>
<u>Reinstatement following revocation or suspension</u>	<u>\$500</u>

B. All fees are nonrefundable.

Regulations

18VAC140-30-30. [Prerequisites Requirements] for licensure as a music therapist.

A. Every applicant for licensure shall submit to the board:

1. A completed application;
2. The application processing fee and initial licensure fee as prescribed in 18VAC140-30-20;
3. [Evidence of current, active certification in good standing as an MT-BC granted by the CBMT or its successor organization, as approved by the board;
4.] Verification of any other mental health or health professional license, registration, or certificate ever held in Virginia or another jurisdiction; and
- [4. 5.] A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank.

B. An applicant shall have no unresolved disciplinary action against a mental health or health professional license, certificate, or registration held in Virginia or in another United States jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC140-30-40. [Requirements for licensure Reserved.

In addition to prerequisites as set forth in 18VAC140-30-30, every applicant for licensure shall submit to the board:

1. Evidence of the current certification as an MT-BC granted by the CBMT or its successor organization, as approved by the board; and
2. An attestation of having read and understood the regulations and laws governing the practice of music therapy in Virginia.]

18VAC140-30-50. Annual renewal of licensure.

A. Every licensed music therapist who intends to continue active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing education requirements prescribed in this chapter; [and]
2. [Evidence of current, active certification in good standing as an MT-BC granted by the CBMT or its successor organization, as approved by the board; and
3.] The renewal fee prescribed in 18VAC140-30-20.

B. A licensed music therapist who wishes to place a license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC140-30-20. No person shall practice music therapy in Virginia unless the person holds a current active license. A licensee who has selected an inactive status may become active by fulfilling the reactivation requirements set forth in subsection C of 18VAC140-30-80.

C. Licensees shall notify the board of a change in the address of record or the public address if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

D. Practicing with an expired license is prohibited and may constitute grounds for disciplinary action.

[E. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.]

18VAC140-30-60. Continuing education requirements for renewal of a license.

[A. For annual licensure renewal, a music therapist shall either hold a current credential as an MT-BC or be required to have completed a minimum of 20 hours of continuing education within the past 12 months. A minimum of three of these hours every five years shall be in courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia.

B. Hours of continuing education activity for a music therapist shall be approved if the hours meet the continued education requirements for recertification as an MT-BC.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

E. A music therapist who holds another license, certification, or registration issued by a Virginia health regulatory board may use up to 10 continuing education hours earned to satisfy the renewal requirements of that profession to satisfy the 20 total continuing education hours required to renew a music therapy license.

F. Up to two hours of the 20 hours required for annual renewal may be satisfied through delivery of music therapy services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.

G. A licensed music therapist is exempt from meeting continuing education requirements for the first renewal following initial licensure in Virginia.

Continuing education required for maintenance of a current credential as an MT-BC shall satisfy board requirements for continuing education.]

18VAC140-30-70. [Documenting compliance with continuing education requirements Reserved.

A. All licensees are required to maintain original documentation for a period of two years following renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. Official transcripts showing credit hours earned; or
2. Certificates of participation.

D. Continuing education hours required by a disciplinary order shall not be used to satisfy renewal requirements.]

18VAC140-30-80. Late renewal; reactivation or reinstatement.

A. A person whose license has expired may renew the license within one year after its expiration date by paying the late fee prescribed in 18VAC140-30-20 as well as the license renewal fee prescribed for the year the license was not renewed and providing evidence of [having met all applicable continuing education requirements current and active certification in good standing as an MT-BC].

B. A person who fails to renew a license after one year or more and wishes to resume practice shall apply for reinstatement, pay the reinstatement fee for a lapsed license, submit verification of any mental health or health professional license the person holds or has held in another jurisdiction, if applicable, and provide evidence of [having met all applicable continuing education requirements to satisfy the hours necessary for the number of years the license has been lapsed, not to exceed a maximum of 80 hours, or evidence of current certification as an MT-BC current and active certification in good standing as an MT-BC]. The board may require the applicant for reinstatement to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.

C. A person wishing to reactivate an inactive license shall submit (i) the renewal fee for active licensure minus any fee already paid for inactive licensure renewal; (ii) [documentation of continued education hours to satisfy the hours necessary for the number of years the license has been inactive, not to exceed a maximum of 80 hours, or] evidence of current certification as an MT-BC; and (iii) verification of any mental health or health professional license the person holds or has held in another jurisdiction, if applicable. The board may require the applicant for reactivation to submit

evidence regarding the continued ability to perform the functions within the scope of practice of the license.

18VAC140-30-90. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by telephone, or electronically, these standards shall apply to the practice of music therapy.

B. Each person licensed as [a] music [therapists therapist] shall:

1. Be able to justify all services rendered to or on behalf of clients as necessary for therapeutic purposes.
2. Provide for continuation of care when services must be interrupted or terminated.
3. Practice only within the competency areas for which the licensee is qualified by education and experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of music therapy.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Ensure that clients are aware of fees and billing arrangements before rendering services.
7. Inform clients of potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment.
8. Keep confidential therapeutic relationships with clients and disclose client records to others only with written consent of the client, with the following exceptions: (i) when the client is a danger to self or others; or (ii) as required by law.
9. When advertising services to the public, ensure that such advertising is neither fraudulent nor misleading.
10. As treatment requires and with the written consent of the client, collaborate with other health or mental health providers concurrently providing services to the client.
11. Refrain from undertaking any activity in which a licensee's personal problems are likely to lead to inadequate or harmful services.
12. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.
- [13. Not engage in conversion therapy with any person younger than 18 years of age.]

Regulations

C. In regard to client records, music therapists shall comply with provisions of § 32.1-127.1:03 of the Code of Virginia on health records privacy and shall:

1. Maintain written or electronic clinical records for each client to include identifying information and assessment that substantiates treatment plans. Each record shall include a treatment plan, progress notes for each case activity, information received from all collaborative contacts and the treatment implications of that information, and the termination process and summary.

2. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality.

3. Disclose or release records to others only with clients' expressed written consent or that of the client's legally authorized representative or as mandated or permitted by law.

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining written consent from a client or a client's legally authorized representative before (i) video recording, (ii) audio recording, (iii) permitting third-party observation, or (iv) using identifiable client records and clinical materials in teaching, writing, or public presentations.

5. For a music therapist practicing in an institution or school setting, follow the recordkeeping policies of the institution or school. For a music therapist practicing in a noninstitutional setting, maintain records for a minimum of six years or as otherwise required by law from the date of termination of the therapeutic relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for six years after attaining the age of majority or 10 years following termination, whichever comes later.

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

c. Records that have been transferred to another mental health professional or have been given to the client or his legally authorized representative.

D. In regard to dual relationships, music therapists shall:

1. Not engage in a dual relationship with a client or a supervisee that could impair professional judgment or increase the risk of exploitation or harm to the client or supervisee. (Examples of such a relationship include familial, social, financial, business, bartering, or a close personal relationship with a client or supervisee.) Music therapists shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and

documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Not have any type of romantic relationship or sexual intimacies with a client or those included in collateral therapeutic services and not provide services to those persons with whom they have had a romantic or sexual relationship. Music therapists shall not engage in romantic relationship or sexual intimacies with a former client within a minimum of five years after terminating the professional relationship. Music therapists who engage in such a relationship after five years following termination shall have the responsibility to examine and document thoroughly that such a relationship did not have an exploitative nature, based on factors such as duration of therapy, amount of time since therapy, termination circumstances, client's personal history and mental status, or an adverse impact on the client. A client's consent to, initiation of, or participation in sexual behavior or involvement with a music therapist neither changes the nature of the conduct nor lifts the regulatory prohibition.

3. Not engage in any romantic or sexual relationship or establish a therapeutic relationship with a current supervisee or student. Music therapists shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student, or the potential for interference with the supervisor's professional judgment.

4. Not engage in a personal relationship with a former client in which there is a risk of exploitation or potential harm or if the former client continues to relate to the music therapist in the music therapist's professional capacity.

E. Upon learning of evidence that indicates a reasonable probability that another mental health provider is or may be guilty of a violation of standards of conduct as defined in statute or regulation, a person licensed by the board shall advise the licensee's clients of the licensee's right to report such misconduct to the Department of Health Professions in accordance with § 54.1-2400.4 of the Code of Virginia.

18VAC140-30-100. Grounds for disciplinary action or denial of issuance of a license.

The board may refuse to issue a license to an applicant or reprimand, impose a monetary penalty, place on probation, impose such terms as the board may designate, suspend for a stated period of time or indefinitely, or revoke a license for one or more of the following grounds:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;

2. Procuring, attempting to procure, or maintaining a license by fraud or misrepresentation;

3. Conducting a practice in such a manner so as to make the practice a danger to the health and welfare of the person's

clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of continuing education.

4. Being unable to practice music therapy with reasonable skill and safety to clients by reason of illness; excessive use of alcohol, drugs, narcotics, chemicals, or any other type of material; or as a result of any mental or physical condition;

5. Conducting a practice in a manner contrary to the standards of ethics of music therapy or in violation of 18VAC140-30-90;

6. Performing functions outside the board-licensed area of competency;

7. Failure to comply with the continued education requirements set forth in 18VAC140-30-60 [~~or maintaining documentation as set forth in 18VAC140-30-70~~]; or

8. Violating or aiding and abetting another to violate any statute applicable to the practice of music therapy or any provision of this chapter.

18VAC140-30-110. Reinstatement following disciplinary action.

Any person whose license has been suspended, revoked, or denied renewal by the board under the provisions of 18VAC140-30-100 shall, in order to be eligible for reinstatement, (i) submit a new application to the board for a license, (ii) pay the appropriate reinstatement fee, and (iii) submit any other credentials as prescribed by the board. After a hearing, the board may, at the board's discretion, grant the reinstatement.

VA.R. Doc. No. R21-6888; Filed September 11, 2025, 10:30 a.m.

**TITLE 20. PUBLIC UTILITIES AND
TELECOMMUNICATIONS**

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: 20VAC5-304. Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs (amending 20VAC5-304-20).

Statutory Authority: §§ 12.1-13, 56-235.2, 56-247, and 56-249 of the Code of Virginia.

Effective Date: September 30, 2025.

Agency Contact: Allison Samuel, Deputy Director, Public Utility Regulation Division, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 225-3177, or email allison.samuel@scc.virginia.gov.

Summary:

Pursuant to Chapters 794 and 818 of the 2024 Acts of Assembly, the amendments establish a single, consistent cost-effectiveness test, the jurisdiction specific test (JST), to be used by investor-owned electric utilities in Virginia in evaluating proposed energy efficiency programs. The amendments do not prohibit natural gas utilities from using the JST in the context of respective demand side management (DSM) proceedings. Regulated utilities shall seek approval from the State Corporation Commission of utility system impacts and non-utility system impacts of processes included in the regulation in a DSM proceeding.

AT RICHMOND, SEPTEMBER 16, 2025

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00120

Ex Parte: In the matter of promulgating regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs

ORDER ESTABLISHING RULEMAKING

Chapters 794 and 818 of the 2024 Virginia Acts of Assembly ("Acts"), inter alia, amended and reenacted §§ 56-576 and 56-596.2 of the Code of Virginia ("Code"). Pursuant to their second enactment clauses, Chapters 794 and 818 of the Acts direct the State Corporation Commission ("Commission") to, no later than September 30, 2025, "promulgate regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs" ("EEP Cost-Effectiveness Test Regulations").¹ In developing these regulations:

The Commission shall (i) refer to the cost-benefit analysis framework and process contained in the National Energy Screening Project's National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, in addition to any other materials deemed relevant by the Commission; (ii) utilize a stakeholder process to develop such regulations, facilitated by an independent monitor with technical assistance provided by a group with experience in the process set forth in the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, compensated under the funding provided pursuant to subsection E of § 56-592.1 of the Code of Virginia; and (iii) design such regulations to further the Commonwealth's energy policy requirements and goals, including furthering compliance with the standards set forth under § 56-596.2 of the Code of Virginia, as amended by this act.²

On July 17, 2024, the Commission issued an Order Initiating Stakeholder Process that, among other things, docketed the matter; initiated a stakeholder process ("Stakeholder Process") to

Regulations

commence the development of the EEP Cost-Effectiveness Test Regulations; directed the Commission's Staff ("Staff") to conduct the Stakeholder Process, facilitated by an independent monitor ("Independent Monitor"); provided an opportunity for interested persons to participate in the Stakeholder Process through a schedule of stakeholder group meetings ("Stakeholder Group Meetings"); and directed the Independent Monitor to provide to Staff a summary of the Stakeholder Group Meetings to inform Staff's development of proposed regulations.

In July 2024, Keystone Policy Center ("Keystone") was contracted as the Independent Monitor to facilitate the Stakeholder Process.³ Organizations interested in participating in the Stakeholder Group Meetings submitted their interest to Keystone, and a roster for the Stakeholder Group Meetings was developed by September 2024.⁴ The first Stakeholder Group Meeting occurred on September 18, 2024, and 7 additional meetings occurred approximately every two weeks through January 14, 2025.⁵

On March 25, 2025, the Independent Monitor provided Staff with a final report on the Stakeholder Group Meetings ("Stakeholder Group Report") and draft EEP Cost-Effectiveness Test Regulations ("Draft Regulations"). On March 26, 2025, Staff filed the Stakeholder Group Report and Draft Regulations in this docket.

On May 13, 2025, the Commission issued an Order Establishing Rulemaking that, among other things, directed Staff to forward a copy of the Order Establishing Rulemaking to the Virginia Register of Regulations; provided interested persons an opportunity to file comments on the Draft Regulation; and directed Staff to investigate the Draft Regulation and present its findings and recommendations concerning such regulation and any comments thereon in a report ("Staff Report"). Staff forwarded the Order Establishing Rulemaking and the Draft Regulation to the Virginia Register of Regulations on May 13, 2025.

Comments on the Draft Regulation were filed by each of the following: American Council for an Energy-Efficient Economy; Appalachian Power Company; Virginia Electric and Power Company d/b/a Dominion Energy Virginia; Kentucky Utilities d/b/a Old Dominion Power Company ("KU/ODP"); the Nature Conservancy; Virginia Energy Efficiency Council; Virginia League of Conservation Voters; Virginia Manufacturers Association; Virginia, Maryland, and Delaware Association of Electric Cooperatives; and Virginia Natural Gas, Inc.

On August 5, 2025, Staff filed its Staff Report. In its Staff Report, Staff summarized the numerous comments the Commission received on the Draft Regulation and the recommendations made by subject matter experts and stakeholders. Staff appended the Stakeholder Group Report to the Staff Report as well. Based on these comments and recommendations, Staff made the following findings and recommendations for the Draft Regulation:⁶

Staff believes it essential that utilities are able to provide accurate data sets based on utility-specific or Virginia-specific data. It is equally important that Staff and other parties are able to verify the accuracy of such data in the [Virginia Jurisdiction Specific Test ("JST")] calculations.

It is Staff's understanding that the "regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency [("EE")] programs" required by the Acts applies to Phase I and Phase II utilities only and does not apply to natural gas utilities or electric cooperatives.

Staff's understanding is that a program shall be approved if the Commission determines (i) it is cost-effective pursuant to Commission regulations (such as the proposed Draft Regulation); and, (ii) if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by the [Total Resource Cost Test ("TRC Test")]. As both Commission determinations above appear to be required for a program to be approved, it does not appear necessary to Staff to designate a "primary" and "secondary" test as this time.

The Acts did not require the Commission to establish regulations related to the TRC Test specifically, and the TRC Test is mentioned separately from the "Commission regulations" in the definition of "in the public interest" in [Code §] 56-576. Therefore, Staff does not believe it is necessary for the TRC Test to be mentioned specifically within the Draft Regulations for the proposed JST.

Staff supports screening programs at the program and portfolio level.

Staff believes the proper discount rate could vary by utility as well as over time. Therefore, the establishment of a specific discount rate should be determined by the Commission on a case-by-case basis. This would allow all parties due process to review the options for different discount rates and allow the Commission to weigh all related evidence to make a more informed decision than is available in this rulemaking proceeding.

Staff recommends the following [Utility System Impacts ("USIs")] for inclusion in the proposed JST (as shown in Appendix B):

Energy Impacts:

Energy Generation;

Capacity;

RPS/ CE [Renewable Portfolio Standard/Clean Energy] Compliance (for EE only); and,

Market Price Effects (using [PJM Interconnection, L.L.C.] Base Residual Auction market clearing prices to evaluate avoided demand benefits).

Transmission Impacts:

Transmission Capacity; and,

Transmission System losses.

Distribution Impacts:

Distribution Capacity;

Distribution System losses; and,

Distribution [Operation and Maintenance "O&M"].

General Impacts:

Financial Incentives;

Program Administration; and,

Risk (accomplished by running cost-benefit sensitivities for: (i) High Load Sensitivity; (ii) Low Load Sensitivity; (iii) High Fuel

Sensitivity; (iv) Low Fuel Sensitivity; (v) High [Transmission & Distribution ("T&D")] Sensitivity; and (vi) Low T&D Sensitivity).

Staff recommends the following Non-USIs for inclusion in the proposed JST (as shown in Appendix B [of the Staff Report]):

Other Fuels Impact:

Fuel and related O&M costs of other fuels; and

Delivery Costs (including other fuel T&D) for EE only.

Societal Impacts:

GHG [Greenhouse Gas] Emissions;

Other Environmental Impacts.

All of the above recommended Non-USIs (should the Commission choose to incorporate them) would need to be subject to further quantification and verification through the respective utility's stakeholder process and subsequent [Demand Side Management ("DSM")] proceedings.

Staff revised the Draft Regulation, which Staff attached as Appendix B to the Staff Report, to reflect its recommendations ("Revised Regulation").⁷

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Revised Regulation, amended and attached hereto as Appendix A, should be adopted as a final rule ("Final Regulation").

Beginning with the 2029 energy efficiency plans and thereafter, the Commission adopts the JST as the single cost effectiveness test to be used by investor-owned electric utilities in Virginia. The comments, Stakeholder Group Report, and Staff Report were nearly unanimous in support for this effective date. While we choose not to expand applicability of the standard test to natural gas utilities, the Final Regulation does not prohibit such utilities from using this test in the context of their respective DSM proceedings.

Recognizing, as noted in the Stakeholder Group Report and in comments submitted in this case, that applicable law requires the Commission to also consider the TRC Test to determine whether a program proposed after 2029 is "in the public interest" pursuant to Code § 56-576, the Commission's Final Regulation includes a reference to the TRC Test.

The Commission further adds language in its Final Regulation to clarify that the single cost effectiveness test shall be applied at both the program and portfolio level. In terms of the USIs included therein, the Commission agrees with Staff that Staff's recommended list of USIs is appropriate. We adopt this list with the intention of creating a single, standard cost-effectiveness test that, as applicable to all incumbent electric utilities in the Commonwealth, establishes a standard base point of comparison. We recognize that the incumbent electric utilities in the Commonwealth are not similarly situated. We are particularly sensitive to KU/ODP's concerns as to how the Final Regulation may allow the imposition of significant costs on its customer base. We note, however, that the Final Regulation is designed to assist the Commission in evaluating the cost-effectiveness of the proposed programs. The Commission retains discretion in determining whether a program is cost-effective pursuant to these regulations, based on the record established in each case.

In this vein, while we have removed the utility performance incentives from the Final Regulation, we note that such a metric could be addressed on a case-by-case basis in the context of a specific incumbent electric utility's DSM proceeding. Similarly, we agree with Staff that whether a societal discount rate should apply to a cost-effectiveness test could be decided on a case-by-case basis. Therefore, the Final Regulation includes no reference to these metrics.

As pertains to the non-USIs, the Commission finds these metrics relevant at this time. Specifically, we adopt the Other Fuels Impact metrics: "Fuel and related Operations & Maintenance costs of other fuels" and "Delivery Costs (including other fuel Transmission & Distribution) for Energy Efficiency only" in the Non-Usi impacts of the JST. We agree with Staff that the quantification and verification process for these metrics should be established through each utilities' stakeholder process. The utilities shall seek Commission approval of such processes in a subsequent DSM proceeding.

Likewise, for the Societal Impacts category of Non-Usi impacts, the Commission adopts the "Greenhouse Gas Emissions" and "Other Environmental Impacts" metrics. We adopt Staff's recommendation that each utility's stakeholder process develop accurate quantification and verification methodologies for each of these impacts. The utilities shall seek Commission approval of such method in the subsequent DSM proceeding.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's EEP Cost-Effectiveness Test Regulation is amended as shown in Appendix A attached to this Order and shall become effective on September 30, 2025.

(2) The Commission's Office of General Counsel shall forward a copy of this Order, with Appendix A, to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(3) An electronic copy of this Order with Appendix A, including the amended EEP Cost-Effectiveness Test Regulation, shall be made available on the Commission's website: scc.virginia.gov/regulated-industries/utility-regulation/pur-responsibilities/rulemaking.

(4) This docket is dismissed.

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.

¹ Senate Bill 565, 2024 Va. Acts ch. 794, and identical House Bill 746, 2024 Va. Acts ch. 818.

² Id.

³ Stakeholder Group Report at 5.

⁴ Id.

⁵ See id.

⁶ Staff Report at 38-40.

⁷ Staff Report at Appendix B.

Regulations

20VAC5-304-20. Cost/benefit measures.

Utility [A.] Through 2028, utility applicants shall analyze a proposed program from a multi-perspective approach using, at a minimum, the Participants Test, the Utility Cost Test, the Ratepayer Impact Measure Test, and the Total Resource Cost Test. Utilities may file for approval of programs individually or as a package. However, any application which that includes a package of DSM programs shall also provide an analysis of the cost/benefit of each program individually.

[B.] Beginning with efficiency plans for 2029 and any subsequent years, [investor-owned electric] utilities shall analyze cost-effectiveness [primarily] using a Virginia jurisdiction specific test (JST) [and the total resource cost test. The JST shall be conducted on a program and portfolio level]. The JST includes all utility system impacts [that are material to energy efficiency or demand response measures,] as shown in [Table 1 subsection C] of this section [, as well as other fuel impacts, greenhouse gas emission impacts, and other environmental impacts shown in Table 2 of this section. The

~~only other cost effectiveness test utilities are required to use for 2029 and subsequent years is the total resource cost (TRC) test. Beginning with efficiency plans for 2029, the TRC test must include (i) all applicable utility system impacts included in the JST; (ii) other fuel impacts; and (iii) host customer (program participant) costs and benefits, including non-energy costs and benefits as shown in Tables 3 and 4 of this section]. [Estimates The JST includes the non-utility system impacts shown in subsection D of this section. All estimates] of [non-energy] costs or benefits may be used on Virginia-specific studies when available, studies from other jurisdictions when applicable to Virginia or adapted to address differences between Virginia and other states, or proxy adders to avoided costs [, as determined by the commission in the course of a DSM proceeding]. [The basis for any proxy adders must be provided. Beginning with efficiency plans for 2029 and any subsequent years, utilities shall use a real discount rate of 2.0% in analyses conducted under both the JST and the TRC.~~

Table 1: JST USI Applicability and Materiality
ELECTRICITY UTILITY SYSTEM IMPACTS

<u>Impact Type</u>	<u>Impact</u>	<u>EE</u>	<u>DR</u>
<u>Energy</u>	<u>Energy Generation</u>	<u>X</u>	<u>X</u>
	<u>Capacity</u>	<u>X</u>	<u>X</u>
	<u>Environmental Compliance</u>	<u>X</u>	<u>X</u>
	<u>RPS/CES Compliance</u>	<u>X</u>	<u>NM</u>
	<u>Market Price Events</u>	<u>X</u>	<u>X</u>
	<u>Ancillary Services</u>	<u>NM</u>	<u>NM</u>
<u>Transmission</u>	<u>Transmission Capacity</u>	<u>X</u>	<u>X</u>
	<u>Transmission System Losses</u>	<u>X</u>	<u>X</u>
<u>Distribution</u>	<u>Distribution Capacity</u>	<u>X</u>	<u>X</u>
	<u>Distribution System Losses</u>	<u>X</u>	<u>X</u>
	<u>Distribution O&M</u>	<u>X</u>	<u>X</u>
	<u>Distribution Voltage</u>	<u>NM</u>	<u>NM</u>
<u>General</u>	<u>Financial Incentives</u>	<u>X</u>	<u>X</u>

	<u>Program Administration</u>	<u>X</u>	<u>X</u>
	<u>Utility Performance Incentives</u>	<u>X</u>	<u>X</u>
	<u>Credit and Collection</u>	<u>NM</u>	<u>NM</u>
	<u>Risk</u>	<u>X</u>	<u>X</u>
	<u>Reliability</u>	<u>NM</u>	<u>NM</u>
	<u>Resilience</u>	<u>NM</u>	<u>NM</u>

X— Impacts that are both applicable and material

NM— Not material, or not large enough to merit routine inclusion

Table 2: JST Recommendation for Non- USI Applicability

NON-UTILITY SYSTEM IMPACTS

<u>Impact Type</u>	<u>EE</u>	<u>DR</u>
<u>Other Fuels</u>		
<u>Fuel and O&M</u>	<u>X</u>	<u>X</u>
<u>Delivery Costs (including other Fuel T&D)</u>	<u>X</u>	<u>Embedded</u>
<u>Environmental Compliance</u>	<u>Embedded</u>	<u>Embedded</u>
<u>Market Price Effects</u>	<u>X</u>	<u>X</u>
<u>Societal</u>		
<u>Greenhouse Gas Emissions</u>	<u>X</u>	<u>X</u>
<u>Other Environmental Impacts</u>	<u>X</u>	<u>X</u>
<u>Public Health</u>	<u>Embedded</u>	<u>Embedded</u>
<u>Resilience</u>	<u>NM</u>	<u>NM</u>
<u>Economic Development and Jobs</u>	<u>Not applicable to BCA but consider analyzing alongside BCA given policy goals</u>	
<u>Equity</u>		
<u>Energy Security</u>		

Table 3: TRC Recommendation for USIs

ELECTRIC UTILITY SYSTEM IMPACTS

<u>Impact Type</u>	<u>Impact</u>	<u>EE</u>	<u>DR</u>
<u>Energy</u>	<u>Energy Generation</u>	<u>X</u>	<u>X</u>
	<u>Capacity</u>	<u>X</u>	<u>X</u>
	<u>Environmental Compliance</u>	<u>X</u>	<u>X</u>
	<u>RPS/CES Compliance</u>	<u>X</u>	<u>NM</u>

Regulations

	<u>Market Price Effects</u>	<u>X</u>	<u>X</u>
	<u>Ancillary Services</u>	<u>NM</u>	<u>NM</u>
<u>Transmission</u>	<u>Transmission Capacity</u>	<u>X</u>	<u>X</u>
	<u>Transmission System Losses</u>	<u>X</u>	<u>X</u>
<u>Distribution</u>	<u>Distribution Capacity</u>	<u>X</u>	<u>X</u>
	<u>Distribution System Losses</u>	<u>X</u>	<u>X</u>
	<u>Distribution O&M</u>	<u>X</u>	<u>X</u>
	<u>Distribution Voltage</u>	<u>NM</u>	<u>NM</u>
<u>General</u>	<u>Financial Incentives</u>	<u>X</u>	<u>X</u>
	<u>Program Administration</u>	<u>X</u>	<u>X</u>
	<u>Utility Performance Incentives</u>	<u>X</u>	<u>X</u>
	<u>Credit and Collection</u>	<u>NM</u>	<u>NM</u>
	<u>Risk</u>	<u>X</u>	<u>X</u>
	<u>Reliability</u>	<u>NM</u>	<u>NM</u>
	<u>Resilience</u>	<u>NM</u>	<u>NM</u>

X — Impacts that are both applicable and material

NM — Not material, or not large enough to merit routine inclusion

Table 4: TRC Recommendation for Non-USIs

<u>Impact Type</u>	<u>EE</u>	<u>DR</u>
<u>Other Fuels</u>		
<u>Fuel and O&M</u>	<u>X</u>	<u>X</u>
<u>Delivery Costs (including other fuel T&D)</u>	<u>X</u>	<u>Embedded</u>
<u>Environmental Compliance</u>	<u>Embedded</u>	<u>Embedded</u>
<u>Market Price Effects</u>	<u>X</u>	<u>X</u>
<u>Host Customer</u>		
<u>Measure Costs</u>	<u>X</u>	<u>X</u>
<u>Transaction Costs</u>	<u>X</u>	<u>X</u>
<u>Risk</u>	<u>X</u>	<u>X</u>
<u>Reliability</u>	<u>X</u>	<u>X</u>
<u>Resilience</u>	<u>X</u>	<u>X</u>
<u>Tax Incentive</u>	<u>X</u>	<u>X</u>
<u>Non-Energy Impacts (Non-Low Income)</u>	<u>X</u>	<u>X</u>
<u>Non-Energy Impacts (Low Income)</u>	<u>X</u>	<u>X</u>

C. Table 1: JST utility system impacts.

1. Energy impacts:

a. Energy generation:

- b. Capacity;
- c. Renewable portfolio standard or clean energy compliance (for energy efficiency only); and
- d. Market price effects using PJM Interconnection LLC base residual auction market clearing prices to evaluate avoided demand benefits.

2. Transmission impacts:

- a. Transmission capacity; and
- b. Transmission system losses.

3. Distribution impacts:

- a. Distribution capacity;
- b. Distribution system losses; and
- c. Distribution operation and maintenance.

4. General impacts:

- a. Financial incentives;
- b. Program administration; and
- c. Risk, accomplished by running cost-benefit sensitivities for (i) high load sensitivity, (ii) low load sensitivity, (iii) high fuel sensitivity, (iv) low fuel sensitivity, (v) high transmission and distribution sensitivity, and (vi) low transmission and distribution sensitivity.

D. Table 2: JST non-utility system impacts.

1. Other fuels impacts:

- a. Fuel and related operation and maintenance costs of other fuels; and
- b. Delivery costs, including other fuel transmission and distribution, for energy efficiency only.

2. Societal impacts:

- a. Greenhouse gas emissions; and
- b. Other environmental impacts.]

VA.R. Doc. No. R25-8321; Filed September 16, 2025, 12:13 p.m.

EXECUTIVE ORDER NUMBER FIFTY-THREE (2025)

ENHANCING SECURITY FOR ELECTION PREPAREDNESS

By virtue of the authority vested in me as Governor of the Commonwealth of Virginia, I hereby issue this Executive Order to ensure enhanced security of the Commonwealth's electoral process and additional coordination of state agencies and law enforcement to ensure election preparedness.

Importance of the Initiative

The Commonwealth of Virginia has a robust set of critical security requirements for its election infrastructure and processes prescribed by state and federal law. These security requirements and processes ensure that the Commonwealth's elections are secure, transparent, and accountable. This comprehensive framework continues to assure public confidence in the electoral process. These measures are designed to safeguard every stage of election administration, from voter registration through results certification.

All ballots in the Commonwealth are cast on paper and retained after every election for audit and verification purposes. Ballots are counted using counting machines, not voting machines, which are prohibited from wireless communication and not connected to the internet, adding a further layer of security. Accuracy is reinforced through rigorous Logic and Accuracy testing before every election and verified through post-election audits and triple-check counting procedures. Voter rolls are kept accurate through daily cross-checks with the Department of Motor Vehicles, death records, and other data sources, and any non-citizens or otherwise ineligible individuals are removed promptly to ensure only qualified voters remain on the lists. Together, these measures provide Virginians with one of the most secure and transparent election systems in the nation.

Prior to every election, Logic and Accuracy testing is conducted on every counting machine, electronic pollbook, and ballot-on-demand printer. These tests verify that counting systems operate as intended, display correct information, accurately read ballots, and properly tabulate results. Every machine must produce a zero-tape after testing, confirming that vote counters are reset to zero before machines are sealed and transported to polling places. Political parties and candidates, if in a nonpartisan election, are notified and given the opportunity to observe this testing, further enhancing transparency and public trust.

Virginia's voter registration system is protected by rigorous cybersecurity controls. These include compliance with Virginia Information Technology Agency Security Policy SEC530, access segmentation by locality, multi-factor authentication, and continuous logging and monitoring. Vulnerabilities are addressed through advanced security tools, while users undergo annual cybersecurity awareness training.

These layered defenses ensure that voter registration data remains secure and reliable.

Virginia law mandates that each electoral board annually assess its security procedures and report on compliance with the Local Election Security Standards (LESS) adopted by the State Board of Elections. Localities must conduct risk assessments and submit detailed remediation plans to the Department of Elections, ensuring a standardized and responsive approach to evolving security threats.

Following the LESS assessment, every locality is required to submit an annual Voting System Security Plan tailored to its jurisdiction. These plans address physical and technical safeguards, equipment storage, access controls, security training, and incident response protocols. The plans cover not only the general registrar's office but also any satellite offices used for early voting, ensuring that all election-related facilities are held to high security standards.

In addition to regulatory safeguards, there has been a focus on providing secure, transparent, and accountable elections through both Executive Orders 31 (2024) and 35 (2024). EO 31 established a multi-agency data sharing protocol regarding voter list maintenance. EO 31 specifically built on the administration's robust improvements to list maintenance, including establishing one-to-one data-sharing agreements with 11 states, conducting two National Change of Address mailings, and streamlining the process for removing deceased voters through an audit of Virginia deceased records. All of the measures laid out in EO 31 not only enhance the integrity of the voter registration system but also provide election officials with the reliable data necessary to administer elections effectively.

EO 35 built on the progress established through EO 31 by broadening the focus of election security to ballot security procedures, rigorous testing of counting machines, and strengthened standards for maintaining accurate voter rolls. EO 35 further directed the Commissioner of Elections to provide an annual written certification that these protections are in place, ensuring accountability and consistency every year. Additionally, EO 35 reinforced clear procedures for addressing non-citizen voter registration violations, requiring referral to local Commonwealth's Attorneys and the Office of the Attorney General. The final piece of EO 35 was encouraging registrars and requiring state agencies to post clear information on election-related offenses and their penalties. This practice serves as a further safeguard against misconduct and reinforces public trust in the integrity of Virginia's elections.

Together, EOs 31 and 35 represent a transition from improving individual elements of election administration to embedding a holistic and enforceable framework that safeguards both voter eligibility and the accurate counting of every ballot.

Protecting the integrity of Virginia's elections is foundational to preserving public trust in democracy. The Commonwealth has implemented a comprehensive, multilayered security

framework that governs every phase of election administration, from voter registration to result tabulation. By mandating rigorous practices such as Logic and Accuracy testing, strict cybersecurity protocols for the statewide voter registration system, and annual locality-level risk assessments, the Commonwealth ensures its electoral systems remain secure, transparent, and accountable. These standards not only deter threats but also promote voter confidence by emphasizing accuracy, accessibility, and verifiability.

As the threat landscape continues to evolve, election security must advance accordingly. This Executive Order strengthens the Commonwealth's existing protections by updating technical standards to align with federal best practices, reinforcing Virginia's higher threshold for security by prohibiting wireless communication and internet connections by counting machines, and mandating interagency coordination ahead of elections. These actions are necessary to stay ahead of emerging risks, foster resilience across all localities, and ensure that all Virginians can continue to rely on free, fair, and secure elections.

Directive

Accordingly, pursuant to the authority vested in me by Article V of the Constitution and the laws of the Commonwealth and as the Chief Executive Officer of the Commonwealth, and pursuant to § 2.2-103 of the Code of Virginia, I hereby direct that:

1. The Commissioner and Department of Elections shall, to the maximum extent possible under state and federal law, coordinate with the federal government through partnerships with the Department of Homeland Security and the U.S. Election Assistance Commission. This coordination shall include the secure sharing of data to identify and remove ineligible individuals from voter rolls in accordance with state and federal law. The Commissioner and the Department shall comprehensively evaluate any new functionality added to SAVE by federal officials for use in accordance with state law. The Commissioner shall continue to use the Department of Homeland Security's SAVE database to identify non-citizens on Virginia's voter list using bulk upload functionality in accordance with state law, a requirement first implemented by my administration. The Commissioner will also provide feedback to the U.S. Election Assistance Commission on their efforts to evaluate statewide voter registration systems and election night reporting modules through the ESTEP program (Election Supporting Technology Evaluation Program).

2. The Commissioner of Elections shall present to the State Board of Elections for consideration an update to the Virginia Voting System Certification Standard that incorporates the United States Election Assistance Commission's Voluntary Voting System Guidelines 2.0 (VVSG 2.0). Upon the State Board of Elections' adoption of these guidelines, the Commissioner of Elections shall ensure that all new voting systems submitted for certification in the Commonwealth are tested against the VVSG 2.0 standards.

3. The Commissioner of Elections shall ensure that Virginia's Voting System Certification Standard confirms to and reflects the Commonwealth's election laws, which impose requirements that exceed federal standards.

4. The Virginia Fusion Center and the Virginia Department of Emergency Management shall collaborate with the Department of Elections to convene an Election Preparedness Tabletop Exercise prior to the start of early voting beginning on September 19, 2025, to evaluate interagency plans, test coordinated response protocols, and identify any gaps in communication or readiness. The following agencies and organizations shall be invited to participate:

Virginia Fusion Center via Virginia State Police
Virginia National Guard
Virginia Department of Emergency Management
Virginia Information Technologies Agency
Virginia Department of Transportation
Virginia Department of Motor Vehicles
Virginia Department of General Services
Virginia State Corporation Commission
Office of the Attorney General
Virginia Department of Elections
Virginia Electoral Board Association
Voter Registrars Association of Virginia
Virginia State Board of Elections

Effective Date

This Executive Order shall be effective upon its signing and shall remain in full force and effect unless amended or rescinded by further executive order or directive. Given under my hand and under the Seal of the Commonwealth of Virginia, this 12th day of September 2025.

/s/ Glenn Youngkin, Governor

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for 1812 Holdings LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for 1812 Holdings LLC for violations of State Water Control Law and regulations and applicable permit at the 1812 North Moore Street facility located in Arlington, Virginia. The proposed order is available from the DEQ contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from October 6, 2025, to November 5, 2025.

Contact Information: Holly Shupe, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email holly.shupe@deq.virginia.gov.

Proposed Enforcement Action for Christendom Educational Corporation

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Christendom Educational Corporation for violations of State Water Control Law and regulations in Warren County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices>. The DEQ contact will accept written comments from October 6, 2025, to November 5, 2025.

Contact Information: Francesca Wright, Enforcement Specialist, Department of Environmental Quality, 4411 Early Road, Harrisonburg, VA 22801, or email francesca.wright@deq.virginia.gov.

Proposed Enforcement Action for Glenwood MHC LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Glenwood MHC LLC for violations of State Water Control Law and regulations and applicable permit at the Glenwood Mobile Home Community LLC sewage treatment plant located in Fredericksburg, Virginia. The proposed order is available from the DEQ contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from October 6, 2025, to November 5, 2025.

Contact Information: Holly Shupe, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email holly.shupe@deq.virginia.gov.

Proposed Enforcement Action for Hiway MHC LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Hiway MHC LLC for violations of State Water Control Law and regulations and applicable permit at the Hiway MHC LLC sewage treatment plant facility located in Leesburg, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices>. The DEQ contact will accept written comments from October 6, 2025, to November 5, 2025.

Contact Information: Katherine Mann, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email katherine.mann@deq.virginia.gov.

Proposed Enforcement Action for Tecnico Corporation

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Tecnico Corporation for violations of the State Water Control Law and regulations in Chesapeake, Virginia. The proposed order is available from the DEQ contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from October 6, 2025, to November 6, 2025.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Town of McKenney

The Department of Environmental Quality (DEQ) is proposing an enforcement action for the Town of McKenney for violations of the State Water Control Law and regulations in McKenney, Virginia. The proposed order is available from the DEQ contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from October 6, 2025, to November 6, 2025.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Bumblebee Solar LLC Withdrawal of Notice of Intent for a Small Renewal Energy Project (Solar) Permit by Rule - Campbell County

Bumblebee Solar LLC has withdrawn its notice of intent for RE0000072, a 15-megawatt project proposed in Campbell County. The original notice was posted in [34:8 VA.R. 830 December 11, 2017](#).

Contact Information: Susan Tripp, Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 664-3470, or email susan.tripp@deq.virginia.gov.

SB Solar LLC Withdrawal of Notice of Intent for a Small Renewable Energy Project (Solar) Permit by Rule - Halifax County

SB Solar LLC has withdrawn its notice of intent for RE0000068, a 10-megawatt project proposed in Halifax County. The original notice was posted in [34:7 VA.R. 759 November 27, 2017](#).

Contact Information: Susan Tripp, Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 664-3470, or email susan.tripp@deq.virginia.gov.

Sigora Solar Withdrawal of Notice of Intent for a Small Renewable Energy Project (Solar) Permit by Rule - Wythe County

Sigora Solar has withdrawn its notice of intent for RE0000051, a 40-megawatt project proposed in Wythe County. The original notice was posted in [33:22 VA.R. 2509 June 26, 2017](#).

Contact Information: Susan Tripp, Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 664-3470, or email susan.tripp@deq.virginia.gov.

Stagecoach Solar Withdrawal of Notice of Intent for a Small Renewable Energy Project (Solar) Permit by Rule - Halifax County

Stagecoach Solar has withdrawn its notice of intent for RE0000064, a 15-megawatt project proposed in Halifax County. The original notice was posted in [34:3 VA.R. 469 October 2, 2017](#).

Contact Information: Susan Tripp, Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 664-3470, or email susan.tripp@deq.virginia.gov.

Sweetspire LLC Withdrawal of Notice of Intent for a Small Renewable Energy Project (Solar) Permit by Rule - Hanover County

Sweetspire LLC has withdrawn its notice of intent for RE0000046, a 20-megawatt project proposed in Hanover County. The original notice was posted in [33:20 VA.R. 2288 May 29, 2017](#).

Contact Information: Susan Tripp, Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 664-3470, or email susan.tripp@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Public Comment Opportunity for Community Psychiatric Support and Treatment

As part of the Right Help, Right Now Medicaid Behavioral Health Services Redesign, the Department of Medical Assistance Services (DMAS) is seeking public comment on a new behavioral health service, Community Psychiatric Support and Treatment (CPST). DMAS appreciates the comments received during a public comment period in December 2024 and is seeking public comment on a revised draft CPST service description available at https://www.dmas.virginia.gov/media/rpsjj0tw/community-psychiatric-support-and-treatment-cpst-draft-for-comment_952025.pdf. Additional information on the Right Help, Right Now Medicaid Behavioral Health Services Redesign is available at <https://www.dmas.virginia.gov/providers/benefits-services-for-providers/behavioral-health/medicaid-behavioral-health-services-redesign/>.

Contact Information: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, TDD (800) 343-0634, or email syreeta.stewart@dmas.virginia.gov.

Opportunity for Review of Eligibility Manual Draft Transmittal

A draft of Transmittal #DMAS-36, the Virginia Medical Assistance Eligibility Manual, is available at <https://www.dmas.virginia.gov/media/bn1jysyl/tn-dmas-36-eff-10-1-25-draft.pdf>.

Contact Information: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, TDD (800) 343-0634, or email syreeta.stewart@dmas.virginia.gov.

DEPARTMENT OF GENERAL SERVICES

Revision to Fees for Commercial Environmental Laboratory Accreditation

Purpose of notice and background information: The Department of General Services, Division of Consolidated Laboratory Services (DCLS) is seeking comment on the revision to fees charged for accrediting commercial environmental laboratories under 1VAC30-46-150. The current fees became effective September 1, 2019, and are based on fiscal year 2018 data. These fees no longer offset program costs. DCLS is seeking comment on two successive years of revisions to the fees charged under 1VAC30-46-150.

General Notices

Authority: Section 2.2-1105 C of the Code of Virginia requires the fee system established under the Virginia Environmental Laboratory Accreditation Program to offset the costs of the program. 1VAC30-46-150 A 5 requires DCLS, as part of its regular budgetary review, to determine whether the fees charged offset the program costs.

Part I, Item 68 C 3 a of Chapter 725 of the 2025 Acts of Assembly, Special Session I, exempts revisions to the fees charged under the program from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that DCLS is required to provide notice and an opportunity to submit written comments on revised fees.

Public comment period: October 6, 2025, to November 5, 2025.

How to comment: DCLS accepts written comments by email, fax, and postal mail. To be considered, comments must include the full name, address, and telephone number of the person commenting and must be received by DCLS by the last day of the comment period. All materials received are part of the public record. Comments should be sent to the contact listed at the end of this notice.

Notice of fees: DCLS is revising fees for two 12-month periods. The first year of revisions to the fees will be the current fees plus an additional 10%. The second year of revisions to the fees will be the first year's fee revisions plus an additional 6.0%.

The revised fees will become effective after the agency's review of public comments and the final fees are published.

A. DCLS requests comments on the following revised fees for Year One (first 12 months):

1VAC30-46-150 C 2

TABLE 1: BASE FEES				
<i>Number of Methods</i>	<i>1 Matrix</i>	<i>2 Matrices</i>	<i>3 Matrices</i>	<i>4 or more Matrices</i>
1-9	\$1788	\$1967	\$2166	\$2379
10-29	\$1925	\$2166	\$2407	\$2682
30-99	\$2132	\$2509	\$2957	\$3507
100-149	\$2269	\$2723	\$3266	\$3919
150+	\$2475	\$3094	\$3884	\$4847

1VAC30-46-150 D 5

TABLE 2: TEST CATEGORY FEES			
Test Category	<i>1 Matrix</i>	<i>2 Matrices</i>	<i>3 or more Matrices</i>
Aquatic toxicity, acute methods only	\$814	N/A	N/A

Aquatic toxicity, acute and chronic methods	\$1089	N/A	N/A
Oxygen Demand	\$309	\$461	\$598
Bacteriology, 1-3 total methods	\$241	\$364	\$474
Bacteriology, 4 or more total methods	\$303	\$454	\$592
Physical, 1-5 total methods	\$241	\$364	\$474
Physical, 6-10 total methods	\$303	\$454	\$592
Physical, 11 or more total methods	\$378	\$571	\$743
Inorganic chemistry, 1-10 total methods	\$344	\$516	\$674
Inorganic chemistry, 11-20 total methods	\$433	\$653	\$853
Inorganic chemistry, 21-49 total methods	\$542	\$812	\$1055
Inorganic chemistry, 50 or more total methods	\$677	\$1018	\$1323
Chemistry metals, 1-5 total methods	\$447	\$674	\$876
Chemistry metals, 6-20 total methods	\$564	\$846	\$1100
Chemistry metals, 21 or more total methods	\$704	\$1059	\$1375
Organic chemistry, 1-5 total methods	\$1122	\$1397	\$1645
Organic chemistry, 6-20 total methods	\$1260	\$1604	\$1913
Organic chemistry, 21-40 total methods	\$1431	\$1865	\$2253
Organic chemistry, 41 or more total methods	\$1645	\$2181	\$2662
Radiochemical, 1-10 total methods	\$1089	\$1502	\$1873
Radiochemical, 11 or more total methods	\$1261	\$1763	\$2217
Asbestos	\$1261	\$1763	\$2217

B. DCLS requests comments on the following revised fees for Year Two (second 12 months):

1VAC30-46-150 C 2

TABLE 1: BASE FEES				
Number of Methods	1 Matrix	2 Matrices	3 Matrices	4 or more Matrices
1-9	\$1895	\$2085	\$2296	\$2522
10-29	\$2041	\$2296	\$2551	\$2843
30-99	\$2260	\$2660	\$3134	\$3717
100-149	\$2405	\$2886	\$3462	\$4154
150+	\$2624	\$3280	\$4117	\$5137

1VAC30-46-150 D 5

TABLE 2: TEST CATEGORY FEES			
Test Category	1 Matrix	2 Matrices	3 or more Matrices
Aquatic toxicity, acute methods only	\$863	N/A	N/A
Aquatic toxicity, acute and chronic methods	\$1154	N/A	N/A
Oxygen Demand	\$328	\$489	\$634
Bacteriology, 1-3 total methods	\$255	\$386	\$503
Bacteriology, 4 or more total methods	\$321	\$482	\$627
Physical, 1-5 total methods	\$255	\$386	\$503
Physical, 6-10 total methods	\$321	\$482	\$627
Physical, 11 or more total methods	\$401	\$605	\$787
Inorganic chemistry, 1-10 total methods	\$365	\$547	\$715
Inorganic chemistry, 11-20 total methods	\$459	\$693	\$904
Inorganic chemistry, 21-49 total methods	\$575	\$861	\$1118
Inorganic chemistry, 50 or more total methods	\$717	\$1079	\$1403
Chemistry metals, 1-5 total methods	\$473	\$715	\$928
Chemistry metals, 6-20 total methods	\$598	\$897	\$1166

Chemistry metals, 21 or more total methods	\$746	\$1123	\$1458
Organic chemistry, 1-5 total methods	\$1189	\$1481	\$1743
Organic chemistry, 6-20 total methods	\$1335	\$1700	\$2028
Organic chemistry, 21-40 total methods	\$1517	\$1976	\$2388
Organic chemistry, 41 or more total methods	\$1743	\$2312	\$2822
Radiochemical, 1-10 total methods	\$1154	\$1592	\$1986
Radiochemical, 11 or more total methods	\$1336	\$1869	\$2349
Asbestos	\$1336	\$1869	\$2349

How fees are calculated: Environmental laboratories pay the total of the base fee and the test category fees.

Base fee: DCLS determines the base fee for a laboratory by taking into account both the total number of methods and the total number of field of accreditation matrices for which the laboratory would be accredited.

Test category fees: The test category fees cover the types of testing for which a laboratory may be accredited, as specified in the laboratory's application or as accredited at the time of annual billing. Fees are charged for each category of tests to be accredited. Fees are charged for the total number of field of accreditation matrices to be accredited under the specific test category. For example, if a laboratory is performing inorganic chemistry for both nonpotable water and solid and chemical materials matrices, the fee for this test category would be found in the column for two matrices. The fee for each category includes one or more analytical methods unless otherwise specified.

When to pay: Payment is due when the initial application is processed or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

How to pay: Fees may be paid by check or credit card via an electronic payment portal provided by DCLS, or other payment arrangements may be made by contacting lab_cert@dgs.virginia.gov. All payments are made after an invoice is issued by DCLS, in accordance with instructions on the invoice or in accordance with special arrangements made by contacting DCLS.

Contact Information: Kimberly Freiberger, Policy Planning Specialist III, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 205-3861, fax (804) 371-8305, or email kimberley.freiberger@dgs.virginia.gov.

General Notices

Revision to Fees for Noncommercial Environmental Laboratory Certification

Purpose of notice and background information: The Department of General Services, Division of Consolidated Laboratory Services (DCLS) is seeking comment on the revision to fees charged for certifying noncommercial environmental laboratories under 1VAC30-45-130. The current fees became effective September 1, 2019, and were based on fiscal year 2018 data. These fees no longer offset the program's costs. DCLS is seeking comment on two successive years of revisions to the fees charged under 1VAC30-45-130.

Authority: Section 2.2-1105 C of the Code of Virginia requires the fee system established under the Virginia Environmental Laboratory Accreditation Program to offset the costs of the program. 1VAC30-45-130 A 4 requires DCLS, as part of its regular budgetary review, to determine whether the fees charged offset the program costs. Part I, Item 68 C 3 a of Chapter 725 of the 2025 Acts of Assembly, Special Session I, exempts revisions to the fees charged under the program from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that DCLS is required to provide notice and an opportunity to submit written comments on revised fees.

Public comment period: October 6, 2025, to November 5, 2025.

How to comment: DCLS accepts written comments by email, fax, and postal mail. To be considered, comments must include the full name, address, and telephone number of the person commenting and must be received by DCLS by the last day of the comment period. All materials received are part of the public record. Comments should be sent to the contact listed at the end of this notice.

Notice of fees: DCLS is revising fees for two 12-month periods. The first year of revisions to the fees will be the current fees plus an additional 10%. The second year of revisions to the fees will be the first year's fee revisions plus an additional 6.0%.

The revised fees will become effective after the agency's review of public comments and the final fees are published.

A. DCLS requests comments on the following revised fees for Year One (first 12 months):

1VAC30-45-130 B: Environmental laboratories performing only simple test procedures as defined by 1VAC30-45-40 shall pay an annual fee of \$759.

1VAC30-45-130 D 2

TABLE 1: BASE FEES		
<i>Number of Methods</i>	<i>1 Matrix</i>	<i>2 Matrices</i>
1-9	\$1,645	\$1,810

10-29	\$1,771	\$1,992
30-99	\$1,961	\$2,309

1VAC30-45-130 E 5

TABLE 2: TEST CATEGORY FEES		
Test Category	<i>1 Matrix</i>	<i>2 Matrices</i>
Oxygen Demand	\$285	\$424
Bacteriology, 1-3 total methods	\$221	\$336
Bacteriology, 4 or more total methods	\$278	\$418
Physical, 1-5 total methods	\$221	\$336
Physical, 6-10 total methods	\$278	\$418
Inorganic chemistry, 1-10 total methods	\$317	\$474
Inorganic chemistry, 11-20 total methods	\$398	\$601
Inorganic chemistry, 21-49 total methods	\$498	\$747
Chemistry metals, 1-5 total methods	\$411	\$620
Chemistry metals, 6-20 total methods	\$519	\$778
Organic chemistry, 1-5 total methods	\$506	\$759
Organic chemistry, 6-20 total methods	\$633	\$949

B. DCLS requests comments on the following revised fees for Year Two (second 12 months):

1VAC30-45-130 B: Environmental laboratories performing only simple test procedures as defined by 1VAC30-45-40 shall pay an annual fee of \$805.

1VAC30-45-130 D 2

TABLE 1: BASE FEES		
<i>Number of Methods</i>	<i>1 Matrix</i>	<i>2 Matrices</i>
1-9	\$1743	\$1918
10-29	\$1877	\$2112
30-99	\$2079	\$2447

1VAC30-45-130 E 5

TABLE 2: TEST CATEGORY FEES		
Test Category	1 Matrix	2 Matrices
Oxygen Demand	\$302	\$449
Bacteriology, 1-3 total methods	\$234	\$356
Bacteriology, 4 or more total methods	\$295	\$443
Physical, 1-5 total methods	\$234	\$356
Physical, 6-10 total methods	\$295	\$443
Inorganic chemistry, 1-10 total methods	\$336	\$503
Inorganic chemistry, 11-20 total methods	\$422	\$637
Inorganic chemistry, 21-49 total methods	\$528	\$792
Chemistry metals, 1-5 total methods	\$436	\$658
Chemistry metals, 6-20 total methods	\$550	\$824
Organic chemistry, 1-5 total methods	\$536	\$805
Organic chemistry, 6-20 total methods	\$670	\$1006

How fees are calculated: Environmental laboratories pay the total of the base fee and the test category fees.

Base fee: DCLS determines the base fee for a laboratory by taking into account both the total number of methods and the total number of field of certification matrices for which the laboratory would be certified.

Test category fees: The test category fees cover the types of testing for which a laboratory may be certified as specified in the laboratory's application or as certified at the time of annual billing. Fees are charged for each category of tests to be certified. Fees are charged for the total number of field of certification matrices to be certified under the specific test category. For example, if a laboratory is performing inorganic chemistry for both nonpotable water and solid and chemical materials matrices, the fee for this test category would be found in the column for two matrices. The fee for each category includes one or more analytical methods unless otherwise specified.

When to pay: Payment is due when the initial application is processed or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

How to pay: Fees may be paid by check or credit card via an electronic payment portal provided by DCLS, or other payment arrangements may be made by contacting lab_cert@dgs.virginia.gov. All payments are made after an invoice is issued by DCLS, in accordance with instructions on the invoice or in accordance with special arrangements made by contacting DCLS.

Contact Information: Kimberly Freiberger, Policy Planning Specialist III, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 205-3861, fax (804) 371-8305, or email kimberley.freiberger@dgs.virginia.gov.

VIRGINIA CODE COMMISSION Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North Ninth Street, Fourth 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.

ERRATA

STATE CORPORATION COMMISSION

Title of Regulation: **14VAC5-342. Rules Governing Standards for the Content of Homeowners Insurance Policies.**

Publication: 42:2 VA.R. 246-250; September 8, 2025.

Correction to Summary for Final Regulation:

Page 246, replace italicized text after "Summary:" with

"The amendments change required limits of liability for other structures and household and personal property for homeowners insurance policies to allow (i) insurers to provide, at the request of the named insured, any limit of liability for other structures of not less than 5.0% of the dwelling limit of liability and (ii) insurers to provide, at the request of the named insured, any limit of liability for household and personal property of not less than 25% of the dwelling limit of liability."

VA.R. Doc. No. R25-8304; Filed September 16, 2025, 5:46 p.m.