



VIRGINIA

REGISTER OF REGULATIONS

VOL. 42 ISS. 5

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

October 20, 2025

TABLE OF CONTENTS

Register Information Page	587
Publication Schedule and Deadlines	588
Petitions for Rulemaking.....	589
Periodic Reviews and Small Business Impact Reviews	592
Regulations	595
1VAC30-105. Regulations Banning Concealed Firearms in Offices Owned or Occupied by Executive Branch Agencies (Fast-Track).....	595
4VAC20-720. Pertaining to Restrictions on Oyster Harvest (Emergency).....	598
8VAC20-790. Child Care Program (Final).....	613
9VAC25-260. Water Quality Standards (Notice of Effective Date).....	618
12VAC5-31. Virginia Emergency Medical Services Regulations (Final)	618
12VAC5-220. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (Final).....	619
12VAC5-371. Regulations for the Licensure of Nursing Facilities (Final)	620
12VAC5-410. Regulations for the Licensure of Hospitals in Virginia (Final)	626
12VAC5-501. Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (Final)	638
12VAC5-590. Waterworks Regulations (Final).....	639
12VAC5-610. Sewage Handling and Disposal Regulations (Final)	649
12VAC5-630. Private Well Regulations (Final)	650
16VAC30-110. Medical Fee Schedules Regulations (Final)	651
18VAC41-20. Barbering and Cosmetology Regulations (Final)	652
18VAC41-20. Barbering and Cosmetology Regulations (Action Withdrawn).....	673
18VAC41-70. Esthetics Regulations (Action Withdrawn)	673
18VAC41-70. Esthetics Regulations (Final).....	673
18VAC75-11. Public Participation Guidelines (Final)	691
18VAC75-20. Regulations Governing Practitioner Self-Referral (Final).....	691
18VAC75-40. Regulations Governing the Criteria for Certification of Dialysis Technicians (Final)	691
18VAC76-50. Regulations Governing Practitioner Self-Referral (Final).....	692
18VAC76-60. Regulations Governing the Criteria for Certification of Dialysis Technicians (Final)	692
18VAC110-20. Regulations Governing the Practice of Pharmacy (Forms)	694
18VAC120-40. Virginia Professional Boxing and Wrestling Events Regulations (Final)	695
24VAC30-21. General Rules and Regulations of the Commonwealth Transportation Board (Final)	696
24VAC30-151. Land Use Permit Regulations (Final)	698
Guidance Documents	728
General Notices	731

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>).

November 2025 through November 2026

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
43:7	October 28, 2026	November 16, 2026

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Initial Agency Notice

Title of Regulation: 2VAC5-685. **Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act.**

Statutory Authority: § 3.2-3906 of the Code of Virginia.

Name of Petitioner: Virginia Pest Management Association.

Nature of Petitioner's Request: The petitioner requests that the Board of Agriculture and Consumer Services promulgate regulations that (i) create a new category or subcategory of pesticide certification for commercial applicators who conduct public health pest control measures in non-public applications and (ii) adjust training and examination requirements between this new category or subcategory and the area-wide applications made or directed by public agencies in support of area-wide public health pest control objectives to best reflect the unique applications intended and expected pursuant to each such category or subcategory.

Agency Plan for Disposition of Request: The Board of Agriculture and Consumer Services will consider this request at the next scheduled board meeting following the public comment period. This meeting will occur on December 11, 2025.

Public Comment Deadline: November 10, 2025.

Agency Contact: Kevin Schmidt, Board Secretary, Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Suite 219, Richmond, VA 23219, telephone (804) 786-1346, fax (804) 371-7679, or email kevin.schmidt@vdacs.virginia.gov.

VA.R. Doc. No. PFR26-06; Filed September 25, 2025, 10:39 a.m.

TITLE 3. ALCOHOLIC BEVERAGE AND CANNABIS CONTROL

Virginia Alcoholic Beverage Control Authority

Initial Agency Notice

Title of Regulation: 3VAC5-50. **Retail Operations.**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Name of Petitioner: Virginia Restaurant, Lodging, and Travel Association.

Nature of Petitioner's Request:

"Dear Members of the Board,

Pursuant to 3VAC5-11-60, I write on behalf of the Virginia Restaurant, Lodging, and Travel Association (VRLTA) to petition the Board of the Alcoholic Beverage Control Authority to consider a regulatory change.

VRLTA, which represents thousands of restaurants, hotels, and hospitality businesses across the Commonwealth, respectfully requests that the Board consider amending 3VAC5-50-160 to allow restaurants and other on-premises licensees to offer reduced-price alcoholic beverages until 12:00 a.m., instead of the current 9:00 p.m. cutoff. This modest but important change would modernize outdated regulations, strengthen small businesses, and maintain the Commonwealth's strong public safety protections.

Virginia has made progress in updating its happy-hour rules in recent years—for example, permitting broader advertising flexibility. However, the fixed 9:00 p.m. cutoff remains a relic of an earlier era. Consumer behavior, dining habits, and late-night transportation options have all evolved significantly. Today, guests dine later, and late-evening business has become essential for many operators struggling with inflation, workforce shortages, and post-pandemic recovery.

The original intent of the 9:00 p.m. restriction was to protect public safety. That remains our shared priority. However, the data show that Virginia has continued to make progress in combating impaired driving. Traffic fatalities decreased nearly 10% from 2022 to 2023, from 1,005 down to 907. DUI convictions dropped as well, by roughly 11% between 2021 and 2023 from 15,988 to 14,246.

While alcohol-related crash numbers fluctuate year to year, overall enforcement, training, and deterrence are working. Combined with widespread rideshare services and the industry's commitment to responsible service, a midnight extension can be implemented safely and effectively.

The hospitality industry is one of Virginia's largest private-sector employers and economic drivers. Virginia hosts approximately 16,900 eating and drinking establishments, employing over 304,000 people. Our industry, many of whom are your licensees, generates \$34.6 billion in annual restaurant and food service sales, generating \$5.7 billion in state and local taxes. Every dollar spent in Virginia restaurants contributes \$1.71 to the state economy. Extending happy hour flexibility until midnight would provide a vital boost to operators, helping businesses keep doors open during slower hours, support payrolls, and strengthen the late-night economy in Virginia's communities.

Guardrails for safety remain in place. VRLTA supports keeping all current prohibitions intact, including bans on unlimited drinks, below-cost sales, and drinking games. We also support clear communication of happy-hour hours,

Petitions for Rulemaking

ongoing ID checks, and strong enforcement of responsible-service training.

We respectfully urge the Board to initiate rulemaking to amend 3VAC5-50-160 E by replacing '9 p.m.' with '12 a.m.' for on-premises licensees. This update would provide Virginia's restaurants and hospitality businesses with much-needed flexibility while continuing to protect the public. Thank you for your consideration and for your continued work balancing safety and economic vitality. VRLTA and our members stand ready to provide testimony, industry data, or suggested draft language as you deliberate.

Respectfully,

Eric Terry

President

Virginia Restaurant, Lodging, and Travel Association"

Agency Plan for Disposition of Request: The Virginia Alcoholic Beverage Control Authority shall review the petition, relevant data and research, and any public comment received to make a determination whether the proposal in the petition is in the best interest of the Commonwealth.

Public Comment Deadline: November 11, 2025.

Agency Contact: LaTonya D. Hucks-Watkins, Senior Legal Counsel, Virginia Alcoholic Beverage Control Authority, 7450 Freight Way, Mechanicsville, VA 23116, telephone (804) 213-4698, fax (804) 213-4574, or email latonya.hucks-watkins@virginiaabc.com.

V.A.R. Doc. No. PFR26-10; Filed September 29, 2025, 9:48 a.m.

TITLE 12. HEALTH

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Initial Agency Notice

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

Statutory Authority: §§ 37.2-203 and 37.2-400 of the Code of Virginia.

Name of Petitioner: R.C. Carter.

Nature of Petitioner's Request: The petitioner requests that the State Board of Behavioral Health and Developmental Services amend 12VAC35-105-1840 C 3 to allow crisis stabilization units to base nursing coverage on an individualized services plan driven, two-tier nursing model.

According to the petitioner:

This amendment will align the Department of Behavioral Health and Developmental Services (DBHDS) regulations with Department of Medical Assistance Services (DMAS) standards, which base nursing coverage on the initial nursing assessment and ISP, and will help ensure that crisis stabilization services remain both safe and financially sustainable across the Commonwealth.

Nursing Requirement and Financial Impact Analysis.

Under the DMAS Comprehensive Crisis Services Manual (Appendix G), crisis stabilization units must provide in-person nursing services 24 hours a day, seven days a week when required by the initial nursing assessment and individualized service plan (ISP). However, a detailed financial review demonstrates that meeting this standard for every client, regardless of actual clinical need, creates unavoidable deficits when all required professionals are considered.

A registered nurse (RN) or licensed practical nurse (LPN) paid between \$35 and \$40 per hour costs about \$840 to \$960 per day, or \$4,200 to \$4,800 over a five-day stay. In addition, a qualified mental health professional (QMHP) at roughly \$20 per hour adds about \$160 per day (\$800 per five days); a certified substance abuse counselor (CSAC) at \$25 per hour adds \$200 per day (\$1,000 per five days); and a licensed mental health professional (LMHP) at \$30 per hour adds \$240 per day (\$1,200 per five days). Together, these staff drive a combined direct cost of roughly \$1,440 per day (or \$7,200 over five days) before any employer burden such as payroll taxes, overtime differentials, benefits, workers' compensation, or professional liability insurance is applied.

When compared with the fixed DMAS reimbursement of \$847.04 per day (about \$4,235 for five days), even the most conservative scenario falls short. For example, an RN at \$30 per hour yields a narrow daily surplus of about \$127 before fringe costs. But at more realistic market wages, which are around \$40 per hour in line with Bureau of Labor Statistics data, the nursing expense alone creates a daily loss of more than \$112, or about \$41,230 annually per client. Once the required QMHP, CSAC, and LMHP staffing is included, the gap widens dramatically. With modest employer overhead (approximately 30% for taxes, benefits, and insurance), the daily cost climbs toward \$1,875, producing a loss of over \$1,000 per day, or \$5,000 for each five-day admission.

This analysis confirms three critical points. First, the true breakeven wage for 24 hours per day, seven days per week nursing is approximately \$35.29 per hour, and even at that rate, sustainability disappears when employer costs and additional staff are added. Second, the DMAS reimbursement structure cannot absorb market-based wages and required professional coverage. Third, aligning staffing with the results of the initial nursing assessment and each client's ISP, as DMAS already permits, is the only way to preserve both safety and financial viability.

In summary, when all required professionals, that is, RN/LPN, QMHP, CSAC, and LMHP, are included, the actual cost of a single five-day crisis stabilization stay far exceeds DMAS reimbursement. Without regulatory flexibility to implement an ISP-driven, two-tier nursing model, providers face unavoidable and continuing losses, placing essential crisis services and timely access to care at risk throughout the Commonwealth.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on October 20, 2025. The petition will also be posted on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment. The public comment period opens October 20, 2025, and closes November 10, 2025.

The board will consider the petition and all comments at the next regular board meeting. Currently that meeting is scheduled for December 10, 2025. The petitioner will be notified of the board's decision no later than 14 days after that meeting.

Public Comment Deadline: November 10, 2025.

Agency Contact: Susan Puglisi, Regulatory Research Specialist, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, Fourth Floor, Richmond, VA 23219, telephone (804) 975-0538, TDD (804) 371-8977, or email susan.puglisi@dbhds.virginia.gov.

VA.R. Doc. No. PFR26-09; Filed September 26, 2025, 3:52 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF SOCIAL WORK

Agency Decision

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

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

Name of Petitioner: Sara Pearce.

Nature of Petitioner's Request: The petitioner requests that the Board of Social Work amend 18VAC140-20-150 to include a new subsection that would require (i) up to three transitional sessions, delivered in person or via synchronous telehealth, to be performed that shall not be less than 45 minutes; (ii) a written referral list of at least three outpatient providers that the licensee has confirmed are accepting new clients as a written crisis-response plan that includes resources 24 hours per day, seven days a week and instructions for emergency care; and

(iii) at the client's request, the licensee shall make one good-faith contact with the client's new therapist to provide a summary of care and current risk factors consistent with confidentiality requirements.

Agency Decision: Request denied.

Statement of Reason for Decision: At its September 26, 2025, meeting, the board voted to take no action on the petition. The board felt that the petition is too limiting and not generalizable across all treatment termination processes.

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.

VA.R. Doc. No. PFR26-07; Filed July 23, 2025, 12:46 p.m.

Agency Decision

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

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

Name of Petitioner: Natalie Both.

Nature of Petitioner's Request: The petitioner requests that the Board of Social Work amend regulations to allow students to apply for pre-supervisory licensure up to 30 days prior to the official conferral of a required degree.

Agency Decision: Request denied.

Statement of Reason for Decision: At its September 26, 2025, meeting, the board voted to take no action on the petition. The board felt that tracking conferral of degrees after the application process has begun would be overly burdensome. Additionally, the risk of a license being awarded to an individual who does not have a degree ultimately conferred was a consideration for taking no action.

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.

VA.R. Doc. No. PFR25-08; Filed April 28, 2025, 10:33 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

STATE MILK COMMISSION

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

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: **2VAC5-150, Rules and Regulations Governing the Transportation of Companion Animals, 2VAC5-315, Virginia Imported Fire Ant Quarantine for Enforcement of the Virginia Pest Law, 2VAC5-490, Regulations Governing Grade "A" Milk, 2VAC5-501, Regulations Governing the Cooling, Storing, Sampling and Transporting of Milk, 2VAC5-510, Regulations Governing the Production, Processing, and Sale of Ice Cream, Frozen Desserts, and Similar Products, 2VAC5-531, Regulations Governing Milk for Manufacturing Purposes, 2VAC5-620, Requirements Pertaining to the Establishment of the Dangerous Dog Registry, 2VAC5-670, Regulations Governing Pesticide Product Registration, Handling, Storage, and Disposal under Authority of the Virginia Pesticide Control Act, 2VAC5-675, Regulations Governing Pesticide Fees Charged by the Department of Agriculture and Consumer Services, 2VAC5-680, Regulations Governing Licensing of Pesticide Businesses Operating under Authority of the Virginia Pesticide Control Act, and 2VAC5-685, Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act.** 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 20, 2025, and ends November 10, 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.

Contact Information: Kevin Schmidt, Board Secretary, Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Suite 219, Richmond, VA 23219, telephone (804) 786-1346, fax (804) 371-7679, or email kevin.schmidt@vdacs.virginia.gov.

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **2VAC15-12, Public Participation Guidelines.** The review will be guided by the principles in Executive Order 19 (2022). The purpose of this review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to the regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins October 20, 2025, and ends November 10, 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.

Contact Information: Crafton Wilkes, Administrator, Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Room 206, Richmond, VA 23218, telephone (804) 786-2013, fax (804) 371-8700, or email crafton.wilkes@vdacs.virginia.gov.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF CONSERVATION AND RECREATION

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Conservation and Recreation conducted a periodic review and a small business impact review of **4VAC5-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated September 18, 2025, to support this decision.

The regulation meets the criteria set out in Executive Order 19 (2022) as it is necessary for the protection of public health, safety, and welfare of the citizens and visitors to the Commonwealth. The regulation does not have an adverse

Periodic Reviews and Small Business Impact Reviews

impact on small businesses and does not overlap, duplicate, or conflict with any known federal or state law or regulation.

Contact Information: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, fax (804) 786-6141, or email lisa.mcgee@dcr.virginia.gov.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Soil and Water Conservation Board conducted a periodic review and a small business impact review of **4VAC50-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated September 16, 2025, to support this decision.

The regulation meets the criteria set out in Executive Order 19(2022) as it is necessary for the protection of public health, safety, and welfare of the citizens and visitors to the Commonwealth. The regulation does not have an adverse impact on small businesses and does not overlap, duplicate, or conflict with any known federal or state law or regulation.

Contact Information: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, fax (804) 786-6141, or email lisa.mcgee@dcr.virginia.gov.

TITLE 16. LABOR AND EMPLOYMENT

SAFETY AND HEALTH CODES BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board conducted a periodic review and a small business impact review of **16VAC25-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated September 23, 2025, to support this decision.

The public participation guidelines afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the Department of Labor and Industry (DOLI) and allows interested persons to be accompanied by and represented by counsel or other representative. This regulation is not overly complex and is clearly written. There is no

negative impact on the regulated community, and the regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation has no negative economic impact on small business.

Contact Information: Cristin Bernhardt, Regulatory Coordinator Department of Labor and Industry, 6606 West Broad Street, Suite 500, Richmond, VA 23230, telephone (804) 786-2392, fax (804) 786-8418, or email cristin.bernhardt@doli.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board conducted a periodic review and a small business impact review of **16VAC25-180, Virginia Field Sanitation Standard, Agriculture**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated September 23, 2025, to support this decision.

The regulation requires agricultural employers to provide potable drinking water, regardless of the number of employees, hand washing, and toilet facilities to field workers performing hand agricultural labor. It is identical to the current federal OSHA standard, except for the requirement that employers provide potable drinking water regardless of the number of employees.

The regulation has three goals: (i) to reduce the incidence of material impairment of the health of Virginia workers due to workplace exposure to known hazards; (ii) to require sanitary facilities for agricultural workers equal to those required for construction workers; and (iii) to protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

Provision of sanitary facilities and potable drinking water serve to reduce or eliminate the following four major categories of occupational diseases: heat-related illnesses, communicable diseases, urinary tract infections, and pesticide-related illnesses.

This regulation is not overly complex and is clearly written. There is no negative impact on the regulated community, and the regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last reviewed four years ago. There have been no significant changes in technology, economic conditions, or other factors in the area affected by the regulation since it became effective. The board has determined that retaining the regulation without amendment is consistent with the stated objectives of applicable law and is the most effective way to minimize the economic impact of regulations on small businesses.

Contact Information: Cristin Bernhardt, Regulatory Coordinator Department of Labor and Industry, 6606 West Broad Street, Suite 500, Richmond, VA 23230, telephone (804) 786-2392, fax (804) 786-8418, or email cristin.bernhardt@doli.virginia.gov.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commonwealth Transportation Board conducted a periodic review and a small business impact review of **24VAC30-315, Standards for Use of Traffic Control Devices to Classify, Designate, Regulate, and Mark State Highways**, and determined that this regulation should be amended. The board is publishing its report of findings dated September 25, 2025, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare and is clearly written and easily understandable. However, amendments are now needed to reflect adoption of the 11th Edition of the Manual on Uniform Traffic Control Devices (MUTCD) by the Federal Highway Administration (FHWA) and adoption of the Virginia MUTCD, version 11.0, by the board.

The board has determined that the regulation must be amended to incorporate the Virginia MUTCD, version 11.0, and complete formal adoption of the standards in accordance with the federal requirements.

The regulation is necessary to adopt federal standards as required by federal law. The board has received no complaints concerning the regulation, and although long and detailed, the regulation is not complex. The federal standards serving as the basis for this regulation were updated in December 2023, and the regulation now conflicts with federal law. A periodic review of this regulation was last performed in 2020. The regulation was adopted in 2012 pursuant to a board resolution dated December 7, 2011, and has not been amended since. This regulation does not impose an economic impact on small businesses.

Contact Information: JoAnne P. Maxwell, Agency Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, fax (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

REGULATIONS

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

Symbol Key

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

TITLE 1. ADMINISTRATION

DEPARTMENT OF GENERAL SERVICES

Fast-Track Regulation

Title of Regulation: 1VAC30-105. Regulations Banning Concealed Firearms in Offices Owned or Occupied by Executive Branch Agencies (amending 1VAC30-105-10 through 1VAC30-105-60, 1VAC30-105-80).

Statutory Authority: §§ 2.2-1100 and 2.2-1102 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: November 19, 2025.

Effective Date: December 5, 2025.

Agency Contact: Kimberly Freiburger, Policy Planning Specialist III, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 205-3861, or email kimberly.freiberger@dgs.virginia.gov.

Basis: Sections 2.2-1100 and 2.2-1102 of the Code of Virginia establish the Department of General Services and authorize the department to promulgate regulations.

Purpose: This action will improve compliance, reduce confusion, and promote transparency by aligning the regulation with statute. The amendments maintain existing protections for the health and safety of the public.

Rationale for Using Fast-Track Rulemaking Process: This action is considered noncontroversial and therefore appropriate for using the fast-track rulemaking process because it brings the regulation up to date with statute. The amendments do not allow for any agency discretion.

Substance: The amendments align the regulation with § 18.2-283.2 of the Code of Virginia by (i) removing outdated language, (ii) updating definitions, and (iii) clarifying exemptions to the prohibition on carrying firearms or explosive materials in executive branch agency buildings.

Issues: The primary advantage to the agency and public of amending the regulation is to better align it with the Code of Virginia. There are no disadvantages to the public 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 Department of General Services (DGS) proposes to amend this regulation to conform to the language found in § 18.2-283.2 of the Code of Virginia.²

Background. Currently, the scope of this regulation is limited to carrying concealed firearms in buildings occupied by executive branch agencies. Chapters 527³ and 548⁴ (identical) of the 2021 Acts of Assembly, Special Session I, expanded the scope of the ban on carrying firearms to include (i) all firearms (rather than only concealed firearms), (ii) explosive materials, and (iii) all state owned or leased buildings (rather than buildings occupied by the executive branch agencies). Subsequently, Chapter 810⁵ of the 2023 Acts of Assembly, added an exception for off-duty and retired state police officers. In this action, DGS proposes to amend the regulation to conform to the 2021 and 2023 legislation as they apply to buildings occupied by the executive branch agencies.

Estimated Benefits and Costs. The buildings owned or leased by executive branch agencies have already been subject to the broadened legislative ban on carrying firearms since 2021, and the exception since 2023. Because statute supersedes regulation, amending the text of the regulation to conform to the Code of Virginia is not expected to create any economic impact other than providing consistency between the Code of Virginia and the regulation.

Businesses and Other Entities Affected. According to DGS, there are approximately 14,100 state-owned or leased buildings in the Commonwealth. The proposed changes would apply to all persons, with certain exceptions, seeking entry into such buildings. 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 benefit for any entity, even if the benefits exceed the costs for all entities combined.⁷ The changes stem from legislation which is already in effect, and thus conforming the regulatory text to the Code of Virginia is not expected to create any economic impact other than providing consistency between the Code and the regulation. Thus, no adverse impact from the regulatory change is indicated.

Small Businesses⁸ Affected.⁹ The proposed amendments do not adversely affect small businesses.

Localities¹⁰ Affected.¹¹ The proposed amendments do not introduce costs for localities.

Projected Impact on Employment. No impact on employment is expected.

Effects on the Use and Value of Private Property. No effects on the use and value of private property nor on real estate development costs are expected.

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 <https://law.lis.virginia.gov/vacode/title18.2/chapter7/section18.2-283.2/>.

³ <https://legacylis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0527>.

⁴ <https://legacylis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0548>.

⁵ <https://legacylis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0810>.

⁶ Pursuant to § 2.2-4007.04 D of the Code of Virginia: 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..

⁷ 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.

⁸ 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."

⁹ 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.

¹⁰ "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.

¹¹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Department of General Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments align the regulation with § 18.2-283.2 of the Code of Virginia by (i) removing outdated language, (ii) updating definitions, and (iii) clarifying exemptions to the prohibition on carrying firearms or explosive materials in executive branch agency buildings.

Chapter 105

Regulations ~~Banning Concealed~~ Prohibiting the Carrying of Firearms or Explosive Materials in Offices Owned or Occupied by Executive Branch Agencies

1VAC30-105-10. Purpose.

The purpose of this chapter is to ~~ban~~ prohibit the carrying of ~~concealed~~ firearms or explosive materials in offices occupied by executive branch agencies, with certain exceptions as set forth ~~herein~~ in this chapter.

1VAC30-105-20. Applicability.

~~A. This chapter applies to all buildings owned, leased, or controlled in whole or in part by or for an executive branch agency. This chapter is intended to be consistent with the Virginia Department of Human Resource Management Policy 1.80—Workplace Violence, which prohibits state employees from possessing, brandishing, or using a weapon that is not required by the employee's position while on state premises or engaged in state business § 18.2-283.2 of the Code of Virginia.~~

~~B. This chapter applies to the concealed carrying of firearms; the Department of General Services has issued a guidance document elsewhere prohibiting the open carrying of firearms.~~

~~C. The prohibition against carrying a concealed firearm does not apply to law enforcement officers, authorized security personnel, or military personnel when such individuals are authorized to carry a firearm in accordance with their duties and when they are carrying the firearm within that authority. It also does not apply to state employees where the employee's position requires carrying a concealed firearm.~~

~~D. This chapter does not apply to individuals who are on public hunting lands, are engaged in lawful hunting, and are in compliance with the Department of Game and Inland Fisheries hunting and trapping regulations found in 4VAC15, regarding allowable firearms and hunting license requirements.~~

1VAC30-105-30. Definitions.

"Authorized security personnel" means a natural person who is employed to (i) perform the functions of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises ~~he~~ the person is assigned to protect; (ii) safeguard and protect persons and property; or (iii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises ~~he~~ the person is assigned to protect.

~~"Concealed firearm" means a firearm hidden from common observation, including a firearm hidden when it is observable but is of such deceptive appearance as to disguise the firearm's true nature.~~

"Executive branch agency" means any administrative unit of state government in the executive branch, including any department, institution, commission, board, council, authority, or other body, however designated.

"Explosive material" means any chemical compound mixture or device the primary or common purpose of which is to function by explosion; the term includes dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps, and detonating cord but does not include fireworks or permissible fireworks as defined in § 27-95 of the Code of Virginia.

"Firearm" means any handgun, pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material.

"Law-enforcement officer" means the same as that term is defined in § 18.2-307.1 of the Code of Virginia. ~~This shall also include retired law enforcement officers certified pursuant to § 18.2-308.016 of the Code of Virginia.~~

"State office" means any building or portion of a building owned, leased, or controlled by or for an executive branch agency. This includes that portion of any building open to others and then used exclusively for functions or activities sponsored by an executive branch agency tenant ~~or tenants~~ while such functions are taking place. It ~~shall~~ does not include parking facilities, lodges, or cabins owned by the Commonwealth and used solely for the public for recreational activities, any buildings that serve as living quarters for Commonwealth employees, or any buildings at a rest area on an interstate highway.

1VAC30-105-40. Possession of firearms prohibited.

Possession or carrying of any ~~concealed~~ firearm or explosive material by any person is prohibited in state offices. Entry upon a state office in violation of this prohibition is expressly forbidden. ~~This prohibition does not apply to law enforcement officers, authorized security personnel, or military personnel when such individuals are authorized to carry a firearm in accordance with their duties and when they are carrying the firearm within that authority. It also does not apply to state employees where the employee's position requires carrying a concealed firearm.~~

1VAC30-105-50. Required lease terms for state offices.

All leases entered into where an executive branch agency is the lessor shall contain a prohibition on ~~concealed~~ firearms or explosive material consistent with this chapter. All leases entered into for the benefit of an executive branch agency shall contain this prohibition to indicate the lessor's acknowledgment. ~~Exceptions may be allowed where approved in writing by the Governor or his designee.~~

1VAC30-105-60. Posting of signs.

A. Posting location. Signs shall be posted at all state offices indicating the prohibition against carrying ~~concealed~~ firearms or explosive material. Where the entire premises are owned or occupied by an executive branch agency, signs shall be displayed at every entrance. Where only a portion of the premises are leased for an executive branch agency, the signs

shall be displayed within the leased space. If an executive branch agency is using an office open to others, temporary signs shall be displayed at or near the entry to the office during the time the office is being used exclusively for ~~Commonwealth-sponsored~~ Commonwealth-sponsored functions or activities while such functions are taking place.

B. Size and design. Signs shall be of a size and design approved by the Department of General Services. Agencies shall be responsible for obtaining signage design from the Department of General Services and for posting of the signs.

1VAC30-105-80. Exemptions.

A. ~~A state~~ The provisions of this chapter do not apply to law-enforcement officers, authorized security personnel, or military personnel, or fire marshals who have police powers when such individuals are authorized to carry a firearm in accordance with their duties and when such individuals are carrying the firearm within that authority. The provisions of this chapter also do not apply to any member of a cadet corps who is recognized by a public institution of higher education is exempt from this chapter if the institution has implemented its own policies or regulations governing firearms while such member is participating in an official ceremonial event for the Commonwealth.

~~B. Members of the Virginia National Guard (the guard) who possess a valid concealed handgun permit shall be exempt from this chapter while at facilities owned by the guard or under contract or lease to the guard. This exemption may be withdrawn by the commanding officer of any member while such member is participating in any training or other exercises where the commanding officer determines that (i) such possession would interfere with the conduct of such training or other exercises, (ii) such possession may result in mission impairment, or (iii) the member is unfit to carry a handgun.~~

~~C. The Governor or his designee may otherwise grant exemptions from the requirements of this chapter. To qualify for an exemption, the applying executive branch agency must show that an alternative policy consistent with the Commonwealth's policy against firearms in state offices is appropriate.~~

B. The provisions of this chapter shall not apply to the following:

1. Any State Police officer who is off duty;

2. Any retired State Police officer who has participated in annual firearms training and has qualified to the standards required of active law-enforcement officers in the Commonwealth, in accordance with § 18.2-308.016 C of the Code of Virginia;

3. Any retired law-enforcement officer who has participated in annual firearms training, has qualified pursuant to § 18.2-308.016 C of the Code of Virginia, and is visiting a gun range owned or leased by the Commonwealth;

Regulations

4. Any of the following employees authorized to carry a firearm while acting in the conduct of such employee's official duties:

- a. A bail bondsman as defined in § 9.1-185 of the Code of Virginia;
- b. An employee of the Department of Corrections or a state juvenile correctional facility;
- c. An employee of the Department of Conservation and Recreation; or
- d. An employee of the Department of Wildlife Resources;

5. Any individual carrying a weapon into a courthouse who is exempt under § 18.2-283.1 of the Code of Virginia;

6. Any property owned or operated by a public institution of higher education;

7. Any state park; or

8. Any magistrate acting in the conduct of the magistrate's official duties.

VA.R. Doc. No. R26-8359; Filed September 19, 2025, 10:24 a.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-20, 4VAC20-720-40, 4VAC20-720-70).**

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: October 1, 2025, through October 30, 2025.

Agency Contact: Zachary Widgeon, Director of Communications, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2200, fax (757) 247-2002, or email zachary.widgeon@mrc.virginia.gov.

Preamble:

Section 28.2-210 of the Code of Virginia states that if an emergency necessitates the adoption of a regulation for the immediate preservation of the public peace, health, safety, and welfare, or the protection of the seafood industry, natural resources or marine organisms, the Marine Resources Commission may adopt an emergency regulation.

The amendments (i) expand harvest areas and establish season dates for public oyster harvest areas, adding seven harvest areas, and (ii) adopt more flexible gear measures.

4VAC20-720-20. Definitions.

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

"Aid to navigation" means any public or private day beacon, lighted channel marker, channel buoy, lighted channel buoy, or lighthouse that may be at, or adjacent to, any latitude and longitude used in area descriptions.

"Beasley Bay Area" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Pocomoke Sound east of a line that begins at a point located off the north end of Russell Island at Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to an end at Long Point at Latitude 37° 53.8568300' N., Longitude 75° 45.3632100' W.

"California Rock Area" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Tangier Sound south of a line that begins at a point located approximately 1.6 miles east of East Point Marsh at Latitude 37° 50.4093779' N., Longitude 75° 56.5165564' W.; thence due east to an end at a point at Latitude 37° 50.4093779' N., Longitude 75° 53.6926361' W.

"Chesapeake Bay Patent Tong Area" means all public grounds and unassigned grounds in that area of the Chesapeake Bay, including the Deep Rock Area, bounded by a line beginning at the southeastern corner of the Upper Chesapeake Bay - Blackberry Hangs Area, at a point located at Latitude 37° 49.4231463' N., Longitude 76° 13.1972058' W.; thence southerly to the northeastern-most corner of the Deep Rock Area at a point located at Latitude 37° 32.2712826' N., Longitude 76° 11.4813655' W.; thence southerly to the southeastern-most point at the corner of Public Ground 6 of Mathews Counts, located at Latitude 37° 23.2914687' N., Longitude 76° 11.7129870' W.; thence southerly to Plum Tree Point, located at Latitude 37° 07.634478' N., Longitude 76° 17.4847488' W.; thence northwesterly, following the western boundaries of public grounds in and in the vicinity of the Poquoson Flats, Poquoson River, Chisman Creek, and Back River, to Tue Point, at the mouth of the York River, located at Latitude 37° 13.7353263' N., Longitude 76° 23.1214137' W.; thence northeasterly to New Point Comfort Light, located at a point, at Latitude 37° 18.0444793' N., Longitude 76° 16.5883654' W.; thence northerly, following the inshore western boundary of public clam ground 906 and 905 in Mathews County to a point, located at Latitude 37° 22.8921535' N., Longitude 76° 14.8393041' W.; thence northerly to the southwestern-most corner of the Deep Rock Area, located at Latitude 37° 28.1475258' N., Longitude 76° 15.8185669' W.; thence northerly following the boundary of the Deep Rock Area to Cherry Point, located at Latitude 37° 30.9790359' N., Longitude 76° 17.6755365' W.; thence westerly to Stove Point, located at Latitude 37° 31.4971000' N., Longitude 76° 19.8766986' W.; thence following the shoreline north and northeasterly to Stingray Point, located at

Latitude 37° 33.5324634' N., Longitude 76° 17.8232983' W.; thence northeasterly to the eastern-most corner of Rappahannock Rotation Area 1, located at Latitude 37° 34.329127' N., Longitude 76° 15.8396537' W.; thence northerly to a point east of Windmill Point, located at Latitude 37° 36.9479925' N., Longitude 76° 16.5064757' W.; thence northerly to Hughlett Point, located at Latitude 37° 43.7775644' N., Longitude 76° 18.0814988' W.; thence northerly to the northeastern corner of Public Ground 28 of Northumberland County, located at Latitude 37° 46.38727361' N., Longitude 76° 18.235200' W.; thence easterly to the southeastern corner of Great Wicomico Rotation Area 2, located at Latitude 37° 46.6609063' N., Longitude 76° 15.9799327' W.; thence north to boundary line between Great Wicomico Rotation Area 1 and 2, located at Latitude 37° 48.2078168' N., Longitude 76° 15.9799324' W.; thence northerly to the southwestern corner of Upper Chesapeake Bay - Blackberry Hangs Area, located at Latitude 37° 50.0560555' N., Longitude 76° 15.0023233' W.; thence easterly to the southeastern corner of the Upper Chesapeake Bay - Blackberry Hangs Area, at point, located at Latitude 37° 49.4231463' N., Longitude 76° 13.1972058' W., point being the point of beginning.

"Clean culled oyster" means any oyster taken from natural public beds, rocks, or shoals that is three inches or greater in shell length.

"Coan River Area" means the Public Grounds within the Coan River consisting of Public Grounds 77 and 78 of Northumberland County described as:

Public Ground 77 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 2,300 feet northeast of Honest Point and 1,300 feet southwest of Travis Point, said point being Corner 1, located at Latitude 37° 59.5257207' N., Longitude 76° 27.8810639' W.; thence southwesterly to Corner 2, Latitude 37° 59.3710259' N., Longitude 76° 27.9962148' W.; thence southwesterly to Corner 3, Latitude 37° 59.2953830' N., Longitude 76° 28.0468953' W.; thence northwesterly to Corner 4, Latitude 37° 59.3350863' N., Longitude 76° 28.0968837' W.; thence northeasterly to Corner 5, Latitude 37° 59.3965161' N., Longitude 76° 28.0287342' W.; thence northwesterly to Corner 6, Latitude 37° 59.4758507' N., Longitude 76° 28.1112280' W.; thence north-northwesterly to Corner 7, Latitude 37° 59.5079401' N., Longitude 76° 28.1230058' W.; thence northeasterly to Corner 8, Latitude 37° 59.5579153' N., Longitude 76° 27.9889429' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

Public Ground 78 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 3,420 feet southeast of Travis Point and 3,260 feet northwest of Great Point, said point being Corner 1, located at Latitude 37° 59.4822275' N., Longitude 76°

27.1878637' W.; thence southeasterly to Corner 2, Latitude 37° 59.3824046' N., Longitude 76° 27.1088650' W.; thence southwesterly to Corner 3, Latitude 37° 59.2283287' N., Longitude 76° 27.8632901' W.; thence northeasterly to Corner 4, Latitude 37° 59.4368502' N., Longitude 76° 27.6868001' W.; thence continuing northeasterly to Corner 5, Latitude 37° 59.5949216' N., Longitude 76° 27.5399436' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

"Corrotoman Hand Tong Area" means all public grounds in that area of the Corrotoman River and its tributaries north of a line beginning at Bar Point at Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point at Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

"Deep Rock Area" means all public grounds and unassigned grounds, in that area of the Chesapeake Bay near Gwynn Island, beginning at Cherry Point at the western-most point of the eastern headland of Kibble Pond located at Latitude 37° 30.9802148' N., Longitude 76° 17.6764393' W.; thence northeasterly to the Piankatank River, Flashing Green Channel Light "3", Latitude 37° 32.3671325' N., Longitude 76° 16.7038334' W.; thence east-southeasterly to the Rappahannock River Entrance Lighted Buoy G"1R", Latitude 37° 32.2712833' N., Longitude 76° 11.4813666' W.; thence southwesterly to the southern-most point of Sandy Point, the northern headland of "The Hole in the Wall", Latitude 37° 28.1475258' N., Longitude 76° 15.8185670' W.; thence northwesterly along the Chesapeake Bay mean low water line of the barrier islands of Milford Haven, connecting headland to headland at their eastern-most points, and of Gwynn Island to the western-most point of the eastern headland of Kibble Pond on Cherry Point, said point being the point of beginning.

"Deep Water Shoal State Replenishment Seed Area" or "DWS" means that area in the James River near Mulberry Island, beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1, located at Latitude 37° 08.9433287' N., Longitude 76° 38.3213007' W.; thence southeasterly to Corner 2, Latitude 37° 09.5734380' N., Longitude 76° 37.8300582' W.; thence southwesterly to Corner 3, Latitude 37° 08.9265524' N., Longitude 76° 37.0574269' W.; thence westerly to Corner 4, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence northwesterly to Corner 5, Latitude 37° 08.4491489' N., Longitude 76° 38.0215553' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Great Wicomico River Hand Tong Area" means that area of the Great Wicomico River known as Haynie Point, Sandy Point, and Shell Bar.

Haynie Point consists of the area bounded by a line beginning at a point located at Latitude 37° 49.7907323' N., Longitude 76° 18.6294277' W.; thence northeasterly to a point located at Latitude 37° 49.8578592' N., Longitude 76°

Regulations

18.5570328' W.; thence southeasterly to a point located at Latitude 37° 49.7892242' N., Longitude 76° 18.5140118' W.; thence southwesterly to a point located at Latitude 37° 49.7380000' N., Longitude 76° 18.5672041' W.; thence northwesterly to a point located at Latitude 37° 49.7907323' N., Longitude 76° 18.6294277' W., being the point of beginning, containing 4.64 acres.

Sandy Point consists of the area bounded by a line beginning at a point located at Latitude 37° 49.2576829' N., Longitude 76° 18.7547649' W.; thence northeasterly to a point located at Latitude 37° 49.2832242' N., Longitude 76° 18.6559957' W.; thence northeasterly to a point located at Latitude 37° 49.3541620' N., Longitude 76° 18.4765658' W.; thence southerly to a point located at Latitude 37° 49.2917724' N., Longitude 76° 18.4583880' W.; thence southwesterly to a point located at Latitude 37° 49.2335757' N., Longitude 76° 18.6003145' W.; thence southwesterly to a point located at Latitude 37° 49.2166701' N., Longitude 76° 18.7332435' W.; thence northwesterly to a point located at Latitude 37° 49.2576829' N., Longitude 76° 18.7547649' W., being the point of beginning, containing 11.71 acres.

Shell Bar consists of the area bounded by a line beginning at a point located at Latitude 37° 49.4334037' N., Longitude 76° 18.9831193' W.; thence northeasterly to a point located at Latitude 37° 49.5165040' N., Longitude 76° 18.9165237' W.; thence southeasterly to a point located at Latitude 37° 49.3666408' N., Longitude 76° 18.7164965' W.; thence southwesterly to a point located at Latitude 37° 49.3169571' N., Longitude 76° 18.8165540' W.; thence northwesterly to a point located at Latitude 37° 49.3499945' N., Longitude 76° 18.9166098' W.; thence northwesterly to a point located at Latitude 37° 49.4334037' N., Longitude 76° 18.9831193' W, being the point of beginning, containing 17.67 acres.

"Great Wicomico River Rotation Area 1" means all public grounds and unassigned grounds in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay beginning at a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W.; thence easterly to the southern-most point of Cockrell Point, Latitude 37° 49.2664838' N., Longitude 76° 17.3454434' W.; thence easterly following the mean low water line of Cockrell Point to a point on the boundary of Public Ground 115 at Cash Point, Latitude 37° 49.2695619' N., Longitude 76° 17.2804046' W.; thence southeasterly to the gazebo on the pier head at Fleeton Point, Latitude 37° 48.7855824' N., Longitude 76° 16.9609311' W.; thence southeasterly to the Great Wicomico River Light; Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W.; thence westerly to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771' N., Longitude 76° 17.9600320' W.; thence northerly crossing the entrance to Towles Creek at the offshore ends of the jetties and continuing along the mean low water line to Bussel Point, Latitude 37° 48.6879208' N., Longitude 76° 18.4670860' W.; thence northwesterly to the northern

headland of Cranes Creek, Latitude 37° 48.8329168' N., Longitude 76° 18.7308073' W.; thence following the mean low water line northerly to a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W., ~~said~~ point being the point of beginning.

"Great Wicomico River Rotation Area 2" means all public grounds and unassigned grounds in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay beginning at a point on Great Wicomico River Light, Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W.; thence due south to a point due east of the southern-most point of Dameron Marsh, Latitude 37° 46.6610003' N., Longitude 76° 16.0570007' W.; thence due west to the southern-most point of Dameron Marsh, Latitude 37° 46.6609070' N., Longitude 76° 17.2670707' W.; thence along the mean low water line of Dameron Marsh, north and west to Garden Point, Latitude 37° 47.2519872' N., Longitude 76° 18.4028142' W.; thence northwesterly to Windmill Point, Latitude 37° 47.5194547' N., Longitude 76° 18.7132194' W.; thence northerly along the mean low water line to the western headland of Harveys Creek, Latitude 37° 47.7923573' N., Longitude 76° 18.6881450' W.; thence east-southeasterly to the eastern headland of Harveys Creek, Latitude 37° 47.7826936' N., Longitude 76° 18.5469879' W.; thence northerly along the mean low water line to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771' N., Longitude 76° 17.9600320' W.; thence easterly to Great Wicomico River Light, Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W., ~~said~~ point being the point of beginning.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"Hand tong" or "ordinary tong" means any pincers, nippers, tongs, or similar device used in catching oysters, which consists of two shafts or handles attached to opposable and complementary pincers, baskets, or containers ~~operated entirely by hand, from the surface of the water and has no external or internal power source.~~

"Hurleys Rock Area" means that portion of Pocomoke and Tangier Sound Rotation Area 1 in the Tangier Sound north of a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W., thence due west to an end at a point at Latitude 37° 54.6136000' N., Longitude 76° 00.0687800' W.

"Indian Creek Area" means all public grounds and unassigned grounds in that area of Indian Creek and its tributaries in Northumberland and Lancaster Counties between a line beginning at a point on the shore on the south side of the creek located at Latitude 37° 041.4021100' N., Longitude 76° 20.7493600' W.; thence in a straight line to a point on shore on

the north side of the creek located at Latitude 37° 041.4999200' N., Longitude 76° 20.5974400' W.; thence southeasterly to a line beginning on the south shore of the mouth of the creek located at Latitude 37° 041.2975900' N., Longitude 76° 19.5082500' W.; thence in a straight line to a point on shore on the north side of the mouth of the creek located at Latitude 37° 041.0934000' N., Longitude 76° 18.7589400' W.

"James River Area 1" means all public grounds and unassigned grounds in that area of the James River, excluding White Shoal, beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence southeasterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence southeasterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence southeasterly to the northeast corner of the western draw span pier of the James River Bridge (U.S. Route 17), Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence southwesterly along the upstream side of the James River Bridge to the mean low water line; thence northwesterly along the mean low water line, crossing Kings Creek at the headlands and continuing along the mean low water line to a point on the shore at Rainbow Farm Point in line with VMRC Markers "STH" and "SMT," located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH," Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT," at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., ~~said~~ point being the point of beginning.

"James River Area 2" means all public grounds and unassigned grounds in that area of the James River beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker "NMT," Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, said point being in line with VMRC Markers "NMT" and "NTH" and located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; thence southeasterly along the mean low water line to the upstream side of the James River Bridge (U.S. Route 17); thence westerly along the James River Bridge to the northeast corner of the western draw span pier, Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence northwesterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence northwesterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence northwesterly to the Flashing Green Channel Light

#5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., ~~said~~ point being the point of beginning.

"James River Area 3" means those public grounds of Isle of Wight County and Nansemond County (City of Suffolk) located in the James River and Nansemond River west of the Monitor Merrimac Memorial Bridge Tunnel (Route I-664), northeast of the Mills E. Godwin, Jr. Bridge (U.S. Route 17) on the Nansemond River, and south of the James River Bridge (U.S. Route 17).

"James River Seed Area" means all public grounds and unassigned grounds in that area of the James River and its tributaries with a southeastern boundary beginning at a point on the shore on the south side of the river at Rainbow Farm Point in Isle of Wight County located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH," Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT," at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker "NMT," Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, in the City of Newport News, located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; the northern boundary, being a straight line, beginning at a point on the shore on the east side of the river in the City of Newport News, at Latitude 37° 08.4458787' N., Longitude 76° 37.2855533' W.; thence westerly to the southeast corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence westerly to the southwest corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4490472' N., Longitude 76° 38.0215554' W.; thence westerly to a point on the shore on the west side of the river at the mouth of Lawnes Creek in Isle of Wight County, Latitude 37° 08.4582990' N., Longitude 76° 40.2816023' W.

"Larsons Bay Area" means all public grounds in that area of Larsons Bay in the Rappahannock River, beginning at Cherry Point at Latitude 37° 37.6554400' N., Longitude 76° 24.1203200' W.; thence south east to the southern-most corner of the house on Mosquito Point at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence following the ordinary mean low water line in a northwesterly direction to Cherry Point, ~~said~~ point being the point of beginning.

"Latitude and longitude" means values that are based upon a geodetic reference system of the North American Datum of 1983 (NAD83). When latitude and longitude are used in any area description, in conjunction with any physical landmark, to include aids to navigation, the latitude and longitude value is the legal point defining the boundary.

Regulations

"Little Wicomico River" means that area of the Little Wicomico River inside of Public Ground 43 of Northumberland County, located in the Little Wicomico River near Bridge Creek, beginning at a point approximately 150 feet north of Peachtree Point, said point being Corner 1, located at Latitude 37° 53.2910650' N., Longitude 76° 16.7312926' W.; thence southwesterly to Corner 2, Latitude 37° 53.2601877' N., Longitude 76° 16.8662408' W.; thence northwesterly to Corner 3, Latitude 37° 53.2678470' N., Longitude 76° 16.8902408' W.; thence northeasterly to Corner 4, Latitude 37° 53.3113148' N., Longitude 76° 16.8211543' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

"Middle Ground" means all public grounds in the area of the Corrotoman River between a line beginning at Ball Point at Latitude 37° 40.65133000' N., Longitude 76° 28.4440000' W.; thence easterly to a point at the western side of the mouth of Taylor Creek at Latitude 37° 40.97331000' N., Longitude 76° 27.59471000' W.; upstream to a line from Bar Point at Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point at Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

"Milford Haven" means all public grounds and unassigned grounds in that area of Milford Haven and its tributaries bound on the west by a line from a point on the southernmost point of land of the north shore of Milford Haven being near the end of State Route 634, Latitude 37° 29.5971' N., Longitude 76° 18.1822' W.; thence south-southeasterly to a point on the northeast corner of the pier head of the long pier being on the south shore of Milford Haven immediately west of the Sea Farms Inc. facility, Latitude 37° 29.3546' N., Longitude 76° 18.1323' W.; thence following the east side of the pier to the shore and bound on the east by a line from a point on the shore at the western headland of the wash formerly Hills Creek, Latitude 37° 29.0278' N., Longitude 76° 16.3834' W.; thence easterly to a point on the north shore of Sandy Point near Latitude 37° 29.0017' N., Longitude 76° 16.1640' W.; thence following the shore of the east side of Sandy Point to a point on the shoreline at Latitude 37° 28.6233' N., Longitude 76° 15.8605' W.; thence in a line south-southeasterly to a point on the breakwater at Haven Beach, Latitude 37° 26.2006' N., Longitude 76° 15.1257' W.

"Mobjack Bay Area" means that area of Mobjack Bay consisting of Public Ground 2 of Mathews County (Pultz Bar) and Public Ground 25 of Gloucester County (Tow Stake) described as:

Public Ground 2 of Mathews County, known as Pultz Bar, is located in Mobjack Bay, beginning at a point approximately 5,420 feet south of Minter Point, said point being Corner 1, located at Latitude 37° 21.2500000' N., Longitude 76° 21.3700000' W.; thence easterly to Corner 2, Latitude 37° 21.2700000' N., Longitude 76° 20.9600000' W.; thence southerly to Corner 3, Latitude 37° 21.0200000' N., Longitude 76° 20.9400000' W.; thence westerly to Corner 4,

Latitude 37° 21.0500000' N., Longitude 76° 21.3300000' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 25 of Gloucester County, known as Tow Stake, is located in Mobjack Bay, near the mouth of the Severn River, beginning at a point approximately 2,880 feet east-northeast of Tow Stake Point, said point being Corner 1, located at Latitude 37° 20.3883888' N., Longitude 76° 23.5883836' W.; thence northeasterly to Corner 2, Latitude 37° 30.5910482' N., Longitude 76° 23.2372184' W.; thence southeasterly to Corner 3, Latitude 37° 20.3786971' N., Longitude 76° 22.7241180' W.; thence southwesterly to Corner 4, Latitude 37° 19.8616759' N., Longitude 76° 23.5914937' W.; thence northwesterly to Corner 5, Latitude 37° 20.0284019' N., Longitude 76° 23.7717423' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Nomini Creek Area" means that area of Nomini Creek inside of Public Grounds 26 and 28 of Westmoreland County.

Public Ground 26 of Westmoreland County is located in Nomini Creek, north of Beales Wharf and east of Barnes Point, beginning at a point approximately 1,400 feet north of Barnes Point, said point being Corner 1, located at Latitude 38° 07.2690219' N., Longitude 76° 42.6784210' W.; thence southeasterly to Corner 2, Latitude 38° 07.0924060' N., Longitude 76° 42.4745767' W.; thence southwesterly to Corner 3, Latitude 38° 06.8394053' N., Longitude 76° 42.6704025' W.; thence northwesterly to Corner 4, Latitude 38° 06.8743004' N., Longitude 76° 42.7552151' W.; thence northeasterly to Corner 5, Latitude 38° 07.0569717' N., Longitude 76° 42.5603535' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 28 of Westmoreland County is located at the mouth of Nomini Creek, beginning at a point approximately 50 feet west of White Oak Point, said point being Corner 1, located at Latitude 38° 07.6429987' N., Longitude 76° 43.0337082' W.; thence south-southeasterly to Corner 2, Latitude 38° 07.2987193' N., Longitude 76° 43.1101420' W.; thence northwesterly to Corner 3, Latitude 38° 07.7029267' N., Longitude 76° 43.3337762' W.; thence west to the mean low water line, Latitude 38° 07.7031535' N., Longitude 76° 43.3378345' W.; thence northerly and westerly along the mean low water line of Nomini Creek to a point southwest of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence northeasterly to a point on the mean low water line at the southern-most point of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence following the mean low water line of the southern and eastern sides of Cedar Island to a point, Latitude 38° 08.0164430' N., Longitude 76° 43.4773169' W.; thence northeasterly to Corner 4, Latitude 38° 08.0712849' N., Longitude 76° 43.4416606' W.; thence northeasterly to a point on the northern headland of Nomini

Creek at the mean low water line, said point being Corner 5, Latitude 38° 08.2729626' N., Longitude 76° 43.3105315' W.; thence following the mean low water line of White Point to a point northwest of Snake Island, Corner 6, Latitude 38° 08.4066960' N., Longitude 76° 42.9105565' W.; thence southeast, crossing the mouth of Buckner Creek, to a point on the mean low water line of Snake Island, Corner 7, Latitude 38° 08.3698254' N., Longitude 76° 42.8939656' W.; thence southeasterly following the mean low water line of Snake Island to Corner 8, Latitude 38° 08.2333798' N., Longitude 76° 42.7778877' W.; thence south-southwesterly, crossing the mouth of Buckner Creek, to Corner 9, Latitude 38° 08.2134371' N., Longitude 76° 42.7886409' W.; thence southeasterly to a point on the mean low water line of the southern headland of Buckner Creek, Corner 10, Latitude 38° 08.1956281' N., Longitude 76° 42.7679625' W.; thence southwesterly following the mean low water line of Nomini Creek, crossing the mouth of an unnamed cove at the narrowest point between the headlands and continuing to follow the mean low water line to a point on White Oak Point, Latitude 38° 07.6428228' N., Longitude 76° 43.0233530' W.; thence west to Corner 1, said point being the point of beginning.

"Oyster" means any shellfish of the species *Crassostrea virginica*.

"Oyster dredge" means any device having a maximum weight of 150 pounds with attachments, maximum width of 50 inches, and maximum tooth length of four inches.

"Oyster patent tong" means any patent tong not exceeding 100 pounds in gross weight, including any attachment other than rope and with the teeth not to exceed four inches in length.

"Oyster resource user fee" means a fee that must be paid each calendar year by anyone who grows, harvests, shucks, packs, or ships oysters for commercial purposes.

"Piankatank River Area" means ~~that area~~ those areas in the Piankatank River known as Bland Point, Burton Point ~~bounded by a line beginning at a point located at Latitude 37° 30.8149992' N., Longitude 76° 19.8179990' W.; thence northeasterly to a point located at Latitude 37° 30.9333442' N., Longitude 76° 19.7333318' W.; thence southeasterly to a point located at Latitude 37° 30.8832475' N., Longitude 76° 19.5827984' W.; thence southeasterly to a point located at Latitude 37° 30.8335420' N., Longitude 76° 19.3835660' W.; thence southwesterly to a point located at Latitude 37° 30.6867440' N., Longitude 76° 19.5250181' W.; thence northwesterly to a point located at Latitude 37° 30.7700556' N., Longitude 76° 19.7721907' W.; thence northwesterly to a point located at Latitude 37° 30.8149992' N., Longitude 76° 19.8179990' W., being the point of beginning, containing 38.99 acres, and Cape Tune.~~

"Bland Point" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude

37° 31.7504466' N., Longitude 76° 21.3243911' W.; thence westerly to a point located at Latitude 37° 31.7928543' N., Longitude 76° 21.5539642' W.; thence northerly to a point located at Latitude 37° 31.9666666' N., Longitude 76° 21.4833333' W.; thence easterly to a point located at Latitude 37° 31.916666' N., Longitude 76° 21.2666666' W.; thence southerly to a point located at Latitude 37° 31.7504466' N., Longitude 76° 21.3243911' W., being the point of beginning.

"Burton Point" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude 37° 30.8149992' N., Longitude 76° 19.8179990' W.; thence northeasterly to a point located at Latitude 37° 30.9333442' N., Longitude 76° 19.7333318' W.; thence southeasterly to a point located at Latitude 37° 30.8832475' N., Longitude 76° 19.5827984' W.; thence southeasterly to a point located at Latitude 37° 30.8335420' N., Longitude 76° 19.3835660' W.; thence southwesterly to a point located at Latitude 37° 30.6867440' N., Longitude 76° 19.5250181' W.; thence northwesterly to a point located at Latitude 37° 30.7700556' N., Longitude 76° 19.7721907' W.; thence northwesterly to a point located at Latitude 37° 30.8149992' N., Longitude 76° 19.8179990' W., being the point of beginning.

"Cape Tune" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude 37° 31.1154576' N., Longitude 76° 20.8133418' W.; thence easterly to a point located at Latitude 37° 31.0500000' N., Longitude 76° 20.6333333' W.; thence southerly to a point located at Latitude 37° 30.8250970' N., Longitude 76° 20.7108568' W.; thence westerly to a point located at Latitude 37° 30.8350000' N., Longitude 76° 20.9683333' W.; thence northerly to a point located at Latitude 37° 31.1154576' N., Longitude 76° 20.8133418' W., being the point of beginning.

"Piankatank River Hand Tong Area" means that area in the Piankatank River known as Palace Bar bounded by a line beginning at a point located at Latitude 37° 31.6366756' N., Longitude 76° 22.2999953' W.; thence northly to a point located at Latitude 37° 31.7574943' N., Longitude 76° 22.2966779' W.; thence northeasterly to a point located at Latitude 37° 31.8291757' N., Longitude 76° 22.2483355' W.; thence southeasterly to a point located at Latitude 37° 31.8166854' N., Longitude 76° 22.1433377' W.; thence southeasterly to a point located at Latitude 37° 31.7500276' N., Longitude 76° 22.0166809' W.; thence southeasterly to a point located at Latitude 37° 31.6000121' N., Longitude 76° 21.9166733' W.; thence westerly to a point located at Latitude 37° 31.6199872' N., Longitude 76° 22.1500353' W.; thence westerly to a point located at Latitude 37° 31.6366756' N., Longitude 76° 22.2999953' W., being the point of beginning, containing 38.53 acres.

"Pocomoke Sound Area" means that area of Pocomoke Sound inside of Public Ground ~~44~~ 10 of Accomack County.

Regulations

Public Ground 11 of Accomack County consists of the area bounded by a line beginning at a point located at Latitude 37° 54.2242247' N., Longitude 75° 46.8458531' W.; thence northeasterly to a point located at Latitude 37° 54.7717652' N., Longitude 75° 46.2306934' W.; thence southeasterly to a point located at Latitude 37° 54.7655487' N., Longitude 75° 46.2246266' W.; thence northeasterly to a point located at Latitude 37° 55.1625018' N., Longitude 75° 45.7462838' W.; thence northwesterly to a point located at Latitude 37° 55.1713750' N., Longitude 75° 45.7562587' W.; thence northeasterly to a point located at Latitude 37° 55.4058815' N., Longitude 75° 45.4541658' W.; thence northeasterly to a point located at Latitude 37° 55.5742129' N., Longitude 75° 44.8291700' W.; thence northeasterly to a point located at Latitude 37° 55.5923356' N., Longitude 75° 44.7851143' W.; thence northeasterly to a point located at Latitude 37° 55.6009795' N., Longitude 75° 44.7641422' W.; thence southeasterly to a point located at Latitude 37° 55.5842236' N., Longitude 75° 44.7554991' W.; thence southeasterly to a point located at Latitude 37° 55.5265366' N., Longitude 75° 44.6897855' W.; thence northeasterly to a point located at Latitude 37° 55.6926202' N., Longitude 75° 44.3730212' W.; thence northwesterly to a point located at Latitude 37° 55.7414951' N., Longitude 75° 44.4228784' W.; thence northeasterly to a point located at Latitude 37° 55.8075338' N., Longitude 75° 44.2624885' W.; thence southerly to a point located at Latitude 37° 55.6345499' N., Longitude 75° 44.2772024' W.; thence southwesterly to a point located at Latitude 37° 55.5620352' N., Longitude 75° 44.4066645' W.; thence southeasterly to a point located at Latitude 37° 55.4972479' N., Longitude 75° 44.3397091' W.; thence northeasterly to a point located at Latitude 37° 55.5576916' N., Longitude 75° 44.2459142' W.; thence southeasterly to a point located at Latitude 37° 55.4242118' N., Longitude 75° 44.1791595' W.; thence southeasterly to a point located at Latitude 37° 55.3575442' N., Longitude 75° 43.9958019' W.; thence southwesterly to a point located at Latitude 37° 54.8742193' N., Longitude 75° 44.7625058' W.; thence southerly to a point located at Latitude 37° 54.4075648' N., Longitude 75° 44.5291567' W.; thence southeasterly to a point located at Latitude 37° 54.0909029' N., Longitude 75° 44.2291560' W.; thence southwesterly to a point located at Latitude 37° 54.0075735' N., Longitude 75° 44.4791578' W.; thence northwesterly to a point located at Latitude 37° 54.1075697' N., Longitude 75° 44.5958138' W.; thence westerly to a point located at Latitude 37° 54.0909049' N., Longitude 75° 45.1291836' W.; thence northwesterly to a point located at Latitude 37° 54.1909062' N., Longitude 75° 45.2291611' W.; thence northwesterly to a point located at Latitude 37° 54.3242309' N., Longitude 75° 45.6624951' W.; thence southwesterly to a point located at Latitude 37° 54.3075702' N., Longitude 75° 45.7458522' W.; thence southwesterly to a point located at Latitude 37° 53.8075670' N., Longitude 75° 46.7292265' W.; thence northerly to a point located at Latitude 37° 54.2242247' N., Longitude 75°

46.8458531' W., being the point of beginning, containing 1650.39 acres.

Public Ground 10 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 2.3 nautical miles westerly of the northernmost point of North End Point, said point being Corner 1, located at Latitude 37° 56.4741881' N., Longitude 75° 45.7051676' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 56.9261140' N., Longitude 75° 43.7679786' W.; thence south-southwesterly to Corner 3, Latitude 37° 56.1241948' N., Longitude 75° 44.3624962' W.; thence west-southwesterly to Corner 4, Latitude 37° 56.0820561' N., Longitude 75° 44.5826292' W.; thence northerly to Corner 5, Latitude 37° 56.1377309' N., Longitude 75° 44.5817745' W.; thence west-southwesterly to Corner 6, Latitude 37° 56.1259751' N., Longitude 75° 44.6226859' W.; thence southwesterly to Corner 7, Latitude 37° 56.1039335' N., Longitude 75° 44.6692334' W.; thence southerly to Corner 8, Latitude 37° 56.0643616' N., Longitude 75° 44.6750106' W.; thence west-southwesterly to Corner 9, Latitude 37° 55.9742005' N., Longitude 75° 45.1458109' W.; thence west-northwesterly to Corner 10, Latitude 37° 56.0741973' N., Longitude 75° 45.8958329' W.; thence north-northwesterly to Corner 11, Latitude 37° 56.2565760' N., Longitude 75° 46.0000557' W.; thence northeasterly along the Maryland-Virginia state line to Corner 1, corner being the point of beginning.

"Pocomoke Sound Hand Tong Area" means that area of Pocomoke Sound inside of Public Ground 9 and ~~Public Ground 10~~ of Accomack County.

Public Ground 9 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 1.06 nautical miles north-northeast of the northernmost point of North End Point, said point being Corner 1, located at Latitude 37° 57.2711566' N., Longitude 75° 42.2870790' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 57.2896577' N., Longitude 75° 41.9790727' W.; thence southerly to Corner 3, Latitude 37° 57.2574850' N., Longitude 75° 41.9790730' W.; thence southwesterly to Corner 4, Latitude 37° 57.2288700' N., Longitude 75° 42.0077287' W.; thence west-southwesterly to Corner 5, Latitude 37° 57.2034533' N., Longitude 75° 42.1511250' W.; thence south-southwesterly to Corner 6, Latitude 37° 57.0940590' N., Longitude 75° 42.1935214' W.; thence south-southeasterly to Corner 7, Latitude 37° 57.0551726' N., Longitude 75° 42.1814457' W.; thence southwesterly to Corner 8, Latitude 37° 56.9408327' N., Longitude 75° 42.2957912' W.; thence south-southwesterly to Corner 9, Latitude 37° 56.6574947' N., Longitude 75° 42.3790819' W.; thence southwesterly to Corner 10, Latitude 37°

56.5790952' N., Longitude 75° 42.5228752' W.; thence west-southwesterly to Corner 11, Latitude 37° 56.5712564' N., Longitude 75° 42.5915437' W.; thence south-southeasterly to Corner 12, Latitude 37° 56.5441067' N., Longitude 75° 42.5869894' W.; thence southwesterly to Corner 13, Latitude 37° 56.4575045' N., Longitude 75° 42.7458050' W.; thence west-southwesterly to Corner 14, Latitude 37° 56.2575123' N., Longitude 75° 43.3791097' W.; thence southwesterly to Corner 15, Latitude 37° 55.7408688' N., Longitude 75° 43.7957804' W.; thence westerly to Corner 16, Latitude 37° 55.7575327' N., Longitude 75° 43.9458298' W.; thence northwesterly to Corner 17, Latitude 37° 55.8908661' N., Longitude 75° 44.1291309' W.; thence north-northeasterly to Corner 18, Latitude 37° 55.9908639' N., Longitude 75° 44.0791266' W.; thence northeasterly to Corner 19, Latitude 37° 56.1241858' N., Longitude 75° 43.8791328' W.; thence north-northeasterly to Corner 20, Latitude 37° 56.4075136' N., Longitude 75° 43.7291361' W.; thence northeasterly to Corner 21, Latitude 37° 56.8241664' N., Longitude 75° 43.2624601' W.; thence north-northeasterly to Corner 22, Latitude 37° 57.0706006' N., Longitude 75° 43.1480402' W.; thence east-northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.

~~Public Ground 10 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 2.3 nautical miles westerly of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 56.4741881' N., Longitude 75° 45.7051676' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 56.9261140' N., Longitude 75° 43.7679786' W.; thence south-southwesterly to Corner 3, Latitude 37° 56.1241948' N., Longitude 75° 44.3624962' W.; thence west-southwesterly to Corner 4, Latitude 37° 56.0820561' N., Longitude 75° 44.5826292' W.; thence northerly to Corner 5, Latitude 37° 56.1377309' N., Longitude 75° 44.5817745' W.; thence west-southwesterly to Corner 6, Latitude 37° 56.1259751' N., Longitude 75° 44.6226859' W.; thence southwesterly to Corner 7, Latitude 37° 56.1039335' N., Longitude 75° 44.6692334' W.; thence southerly to Corner 8, Latitude 37° 56.0643616' N., Longitude 75° 44.6750106' W.; thence west-southwesterly to Corner 9, Latitude 37° 55.9742005' N., Longitude 75° 45.1458109' W.; thence west-northwesterly to Corner 10, Latitude 37° 56.0741973' N., Longitude 75° 45.8958329' W.; thence north-northwesterly to Corner 11, Latitude 37° 56.2565760' N., Longitude 75° 46.0000557' W.; thence northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.~~

"Pocomoke and Tangier Sounds Management Area" or "PTSMA" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke and Tangier Sounds Rotation Area 1" means all public grounds and unassigned grounds within an area of the PTSMA in Pocomoke and Tangier Sounds, bounded by a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence south to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence westerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence south to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence easterly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence northerly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southeasterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence southeasterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence southeast to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence southerly to a point on a line from Guilford Flats Junction Light to the northern-most point of Russell Island, where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence clockwise following the PTSMA boundary to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Pocomoke and Tangier Sounds Rotation Area 2" means all public grounds and unassigned grounds within an area of the PTSMA in Pocomoke and Tangier Sounds, bounded by a line beginning at the house on Great Fox Island, located at Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southerly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence westerly to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence northerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence easterly to the house on Great Fox Island, said house being the point of beginning. Also, Pocomoke and Tangier Sounds Rotation Area 2 shall include all public grounds and unassigned grounds in the PTSMA in Pocomoke Sound bounded by a line beginning at a point on the Maryland-Virginia state line, Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence following the PTSMA boundary clockwise to a point on the line from the northern-most point of Russell Island to Guilford Flats Junction Light Flashing 2+1 Red "GF", where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence northwesterly to Messongo Creek

Regulations

Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence northwesterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence northwesterly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence northerly to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia or by any other acts of the General Assembly pertaining to those grounds, all those grounds set aside by court order, and all those grounds set aside by order of the Marine Resources Commission and may be redefined by any of these legal authorities.

"Rappahannock River Area 7" means all public grounds in that area of the Rappahannock River bounded downstream by a line from Rogue Point, located at Latitude 37° 40.0400000' N., Longitude 76° 32.2530000' W.; thence west-northwesterly to Flashing Red Buoy "8", Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.; and bounded upstream by a line from Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; thence southeasterly to Monaskon Point, Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.

"Rappahannock River Area 8" means all public grounds in that area of the Rappahannock River bounded downstream by a line from Monaskon Point, located at Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.; thence northwesterly to Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; and bounded upstream by a line from Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; thence north-northwesterly to Sharps Point, Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.

"Rappahannock River Area 9" means all public grounds in that area of the Rappahannock River bounded downstream by a line from Sharps Point, located at Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.; thence south-southeasterly to Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; and bounded upstream by the Thomas J. Downing Bridge (U.S. Route 360).

"Rappahannock River Rotation Area 1" means all public grounds in that area of the Rappahannock River and Chesapeake Bay bounded by a line offshore and across the mouth of the Rappahannock River from a point on the mean low water line of Windmill Point, located at Latitude 37° 36.8200000' N., Longitude 76° 16.9460000' W.; thence southeast to Windmill Point Light, Latitude 37° 35.7930000' N., Longitude 76° 14.1800000' W.; thence southwesterly to Stingray Point Light, Latitude 37° 33.6730000' N., Longitude 76° 16.3620000' W.; thence westerly to a point on the mean low water line of Stingray Point, Latitude 37° 33.6920000' N.,

Longitude 76° 17.9860000' W.; and bounded upstream by a line from the mean low water line west of Broad Creek, Latitude 37° 33.9520000' N., Longitude 76° 19.3090000' W.; thence northeasterly to a VMRC Buoy on the Baylor line, Latitude 37° 34.5310000' N., Longitude 76° 19.1430000' W.; thence northeasterly to a VMRC Buoy, Latitude 37° 34.6830000' N., Longitude 76° 19.1000000' W.; thence northwesterly to a VMRC Buoy, Latitude 37° 35.0170000' N., Longitude 76° 19.4500000' W.; thence northwesterly to Sturgeon Bar Light "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence continuing northwesterly to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence northwesterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 2" means all public grounds in that area of the Rappahannock River bounded downstream by a line from the southern-most corner of the house on Mosquito Point, located at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southeast to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence continuing southeasterly to Sturgeon Bar Beacon "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence west-southwesterly to a VMRC Buoy, Latitude 37° 34.9330000' N., Longitude 76° 21.0500000' W.; thence southwesterly to a VMRC Buoy, Latitude 37° 34.8830000' N., Longitude 76° 21.1000000' W.; thence southwesterly to a pier west of Hunting Creek at Grinels, Latitude 37° 34.4360000' N., Longitude 76° 26.2880000' W.; and bounded on the upstream by a line from Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 26.9500000' W.; thence northeasterly to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence northeasterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 3" means all public grounds in that area of the Rappahannock River beginning from the north channel fender at the Robert O. Norris, Jr. Bridge, located at Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence southeast to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southwest to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence southwesterly to Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 24.9500000' W.; thence northeasterly to Parrotts Creek Channel Marker "1", Latitude 37° 36.0330000' N., Longitude 76° 25.4170000' W.; thence northerly to VMRC Buoy, Latitude 37° 36.3330000' N., Longitude 76° 25.2000000' W.; thence northerly to the north channel fender of the Robert O. Norris, Jr. Bridge, said point being the point of beginning.

"Rappahannock River Rotation Area 4" means all public grounds in that area of the Rappahannock River, Corrotoman River, and Carter Creek, beginning at the White Stone end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 38.1290000' N., Longitude 76° 24.7220000' W.; thence along said bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence westerly to the VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence northerly to Old House Point, Latitude 37° 39.1390000' N., Longitude 76° 29.6850000' W.; thence northeasterly to Ball Point, Latitude 37° 41.6600000' N., Longitude 76° 28.6320000' W.; thence southeasterly to VMRC reef marker "Ferry Bar – North", Latitude 37° 40.3000000' N., Longitude 76° 28.5000000' W.; thence southwesterly to VMRC reef marker "Ferry Bar – South", Latitude 37° 40.1670000' N., Longitude 76° 28.5830000' W.; thence southeasterly to a duck blind west of Corrotoman Point, Latitude 37° 39.8760000' N., Longitude 76° 28.4200000' W.; thence southerly to VMRC Buoy "543", Latitude 37° 39.2670000' N., Longitude 76° 27.8500000' W.; thence southerly to VMRC Buoy "Drumming-West", Latitude 37° 38.8830000' N., Longitude 76° 27.6830000' W.; thence southerly to VMRC Buoy "Drumming-East", Latitude 37° 38.8330000' N., Longitude 76° 27.5670000' W.; thence northeasterly to Orchard Point, Latitude 37° 38.9240000' N., Longitude 76° 27.1260000' W.

"Rappahannock River Rotation Area 5" means all public grounds in that area of the Rappahannock River beginning at the Greys Point end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 36.8330000' N., Longitude 76° 25.9990000' W.; thence northeasterly along the bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence west-northwesterly to VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence westerly to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence south to the eastern headland of Whiting Creek, Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.

"Rappahannock River Rotation Area 6" means all public grounds in that area of the Rappahannock River beginning on the eastern headland of Whiting Creek, located at Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.; thence north to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence northwesterly to VMRC White House Sanctuary Buoy, Latitude 37° 38.1500000' N., Longitude 76° 30.5330000' W.; thence northwesterly to VMRC Towles Point Area Buoy, Latitude 37° 38.8330000' N., Longitude 76° 31.5360000' W.; thence northwesterly to Flashing Red Buoy "8" off Rogue Point, Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.

"Seed oyster" means any oyster taken by any person from natural beds, rocks, or shoals that is more than 30 days from harvest for human consumption.

"Thorofare" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Tangier Sound north of a line beginning at a point, located at Latitude 37° 51.3670743' N., Longitude 75° 53.7526426' W., thence westerly to an end at a point at Latitude 37° 51.3505943' N., Longitude 75° 56.5300708' W.

"Unassigned ground" means all grounds not assigned pursuant to §§ 28.2-600 through 28.2-633 of the Code of Virginia, established pursuant to § 28.2-551 of the Code of Virginia, or set aside by court order, or those grounds set aside by declarations or regulation by the Marine Resources Commission, and may be redefined by any of these legal authorities.

"Upper Chesapeake Bay - Blackberry Hangs Area" means all public grounds and unassigned grounds in that area of the Chesapeake Bay bounded by a line, beginning at a point approximately 300 feet east of the mean low water line of the Chesapeake Bay and approximately 1,230 feet southwest of the end of the southern-most stone jetty at the mouth of the Little Wicomico River, said point being Corner 1, Latitude 37° 53.1811193' N., Longitude 76° 14.1740146' W.; thence east-southeasterly to Corner 2, Latitude 37° 52.9050025' N., Longitude 76° 11.9357257' W.; thence easterly to Corner 3, Latitude 37° 52.9076552' N., Longitude 76° 11.6098145' W.; thence southwesterly to Corner 4, Latitude 37° 52.8684955' N., Longitude 76° 11.6402444' W.; thence east-southeasterly to Corner 5, Latitude 37° 52.7924853' N., Longitude 76° 11.0253352' W.; thence southwesterly to Corner 6, Latitude 37° 49.4327736' N., Longitude 76° 13.2409959' W.; thence northwesterly to Corner 7, Latitude 37° 50.0560555' N., Longitude 76° 15.0023234' W.; thence north-northeasterly to Corner 8, Latitude 37° 50.5581183' N., Longitude 76° 14.8772805' W.; thence north-northeasterly to Corner 9, Latitude 37° 52.0260950' N., Longitude 76° 14.5768550' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"White Shoal" means all public grounds and unassigned grounds in that area of the James River, bounded by a line beginning at a point, Corner 1, located at Latitude 37° 01.2430528' N., Longitude 76° 31.8484099' W.; thence northwesterly to Corner 2, Latitude 37° 01.6296514' N., Longitude 76° 32.3400073' W.; thence northwesterly to Corner 3, Latitude 37° 01.9737472' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 37° 02.3528838' N., Longitude 76° 32.7785342' W.; thence southeasterly to Corner 5, Latitude 37° 01.7124499' N., Longitude 76° 31.8210668' W.; thence southeasterly to Corner 6, Latitude 37° 01.3285092' N., Longitude 76° 31.0444525' W.; thence westerly to Corner 1, corner being the point of beginning.

"Yeocomico River Area" means that area of the North West Yeocomico River, inside Public Ground 8 of Westmoreland County, and those areas of the South Yeocomico River inside

Regulations

Public Grounds 100, 102, 104, 107, and 112 of Northumberland County described as:

Public Ground 8 of Westmoreland County is located in the North West Yeocomico River, beginning at a point approximately 1,455 feet northeast of Crow Bar and 1,850 feet northwest of White Point, said point being Corner 1, located at Latitude 38° 02.7468214' N., Longitude 76° 33.0775726' W.; thence southeasterly to Corner 2, Latitude 38° 02.7397202' N., Longitude 76° 33.0186286' W.; thence southerly to Corner 3, Latitude 38° 02.6021644' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 38° 02.6006669' N., Longitude 76° 33.0824799' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 100 of Northumberland County is located in the South Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 00.2292779' N., Longitude 76° 32.2244222' W.; thence southwesterly to Corner 2, Latitude 38° 00.2183904' N., Longitude 76° 32.2488009' W.; thence westerly to Corner 3, Latitude 38° 00.2156893' N., Longitude 76° 32.3156220' W.; thence northwesterly to Corner 4, Latitude 38° 00.4024997' N., Longitude 76° 32.3338888' W.; thence continuing northeasterly to Corner 5, Latitude 38° 00.5806170' N., Longitude 76° 32.1957546' W.; thence continuing easterly to Corner 6, Latitude 38° 00.5798424' N., Longitude 76° 31.9506788' W., thence continuing southeasterly to Corner 7, Latitude 38° 00.5076459' N., Longitude 76° 31.9387425' W.; thence heading along the mean low water southwesterly to Corner 1, said corner being the point of beginning.

Public Ground 102 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 630 feet south of Mundy Point and 1,745 feet southwest of Tom Jones Point, said point being Corner 1, located at Latitude 38° 01.2138059' N., Longitude 76° 32.5577201' W.; thence east-northeasterly to Corner 2, Latitude 38° 01.2268644' N., Longitude 76° 32.4497849' W.; thence southwesterly to Corner 3, Latitude 38° 01.1091209' N., Longitude 76° 32.5591101' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 104 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 670 feet north of Walker Point and 1,900 feet northwest of Palmer Point, said point being Corner 1, located at Latitude 38° 00.8841841' N., Longitude 76° 32.6106215' W.; thence southeasterly to Corner 2, Latitude 38° 00.8609163' N., Longitude 76° 32.5296302' W.; thence southeasterly to Corner 3, Latitude 38° 00.6693092' N., Longitude 76° 32.4161866' W.; thence southwesterly to Corner 4, Latitude 38° 00.6418466' N., Longitude 76° 32.5394849' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 107 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 1,000 feet southwest of Barn Point and 1,300 feet northwest of Tom Jones Point, said point being Corner 1, located at Longitude 38° 01.1389367' N., Latitude 76° 32.3425617' W.; thence east-southeasterly to Corner 2, Latitude 38° 01.4106421' N., Longitude 76° 32.1077962' W.; thence southwesterly to Corner 3, Latitude 38° 01.2717197' N., Longitude 76° 32.2917989' W.; thence north-northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 112 of Northumberland County is located in the Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 01.8449428' N., Longitude 76° 32.2191877' W.; thence northeasterly to Corner 2, Latitude 38° 01.8783929' N., Longitude 76° 31.9970988' W.; thence southeasterly to Corner 3, Latitude 38° 01.7997003' N., 76° 31.9569302' W.; thence continuing southeasterly to Corner 4, Latitude 38° 01.6848729' N., Longitude 76° 31.5931801' W.; thence southerly to Corner 5, Latitude 38° 01.5760153' N., 76° 31.5931801' W.; thence westerly to Corner 6, Latitude 38° 01.6860521' N., Longitude 76° 32.2820100' W.; thence northerly to Corner 1, said corner being the point of beginning.

"York River Hand Tong Area" means that area of the York River consisting of a portion of Public Ground 31 of Gloucester County (Aberdeen Rock), Public Ground 901 of Gloucester, and King and Queen Counties and that portion of Public Ground 4 of King and Queen County that is in waters approved by the Virginia Department of Health for the harvest of Shellfish (Bell Rock) described as:

Public Ground 31 of Gloucester County, known as Aberdeen Rock, is that portion of Public Ground between a line from Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.74276' N., Longitude 76° 35.49063' W.; upstream to a line from the Flashing Yellow VIMS Data Buoy "CB," Latitude 37° 20.4670000' N., Longitude 76° 37.4830000' W.; thence northeasterly to the inshore end of the wharf at Clay Bank.

Public Ground 901 of Gloucester and King and Queen Counties is located in the York River at the mouth of the Propotank River, beginning at said point being Corner 1, located at Latitude 37° 26.0291178' N., Longitude 76° 42.4769473' W.; thence northwesterly to Corner 2, Latitude 37° 26.1502199' N., Longitude 76° 42.5504403' W.; thence continuing northwesterly to Corner 3, Latitude 37° 26.2593188' N., Longitude 76° 42.5639668' W.; thence southeasterly to Corner 4, Latitude 37° 26.0537949' N., Longitude 76° 42.3217587' W.; thence southwesterly to Corner 5, Latitude 37° 26.0023548' N., Longitude 76° 42.4076221' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 4 of King and Queen County, known as Bell Rock, is located in the York River, beginning at said point being Corner 1, located at Latitude 37° 29.1377467' N., Longitude 76° 45.0390139' W.; thence southerly to Corner 2, Latitude 37° 29.0456979' N., Longitude 76° 45.0642131' W.; thence northwesterly to Corner 3, Latitude 37° 29.5582048' N., Longitude 76° 45.8484481' W.; thence continuing northwesterly to Corner 4, Latitude 37° 29.8480848' N., Longitude 76° 46.5362330' W.; thence northeasterly to Corner 5, Latitude 37° 30.0087805' N., Longitude 76° 46.3513889' W.; thence continue southeasterly to Corner 6, Latitude 37° 29.6554103' N., Longitude 76° 45.5620462' W., thence continuing southeasterly to Corner 7, Latitude 37° 29.1838193' N., Longitude 76° 44.8908342' W., thence continue southeasterly to Corner 8, Latitude 37° 29.1094227' N., Longitude 76° 44.7985114' W., thence continue southeasterly to Corner 9, Latitude 37° 28.9796379' N., Longitude 76° 44.6726329' W., thence continue southeasterly to Corner 10, Latitude 37° 28.7771294' N., Longitude 76° 44.5058580' W., thence continue southeasterly to Corner 11, Latitude 37° 28.6286905' N., Longitude 76° 44.4140389' W., thence continue southeasterly to Corner 12, Latitude 37° 28.4745509' N., Longitude 76° 44.3267558' W., thence continue southeasterly to Corner 13, Latitude 37° 28.4379124' N., Longitude 76° 44.2964890' W., thence continue southeasterly to Corner 14, Latitude 37° 28.3255929' N., Longitude 76° 44.2037875' W., thence continue southeasterly to Corner 15, Latitude 37° 28.2389865' N., Longitude 76° 44.1706101' W., thence continue southeasterly to Corner 16, Latitude 37° 28.2157560' N., Longitude 76° 44.1552324' W., thence westerly to Corner 17, Latitude 37° 28.1396622' N., Longitude 76° 44.3698473' W., thence northerly to Corner 18, Latitude 37° 28.7398061' N., Longitude 76° 44.7807027' W., thence continue northerly to Corner 19, Latitude 37° 28.8838652' N.,

Longitude 76° 44.8818391' W., thence easterly to Corner 20, Latitude 37° 28.9140411' N., Longitude 76° 44.8163514' W. thence northwesterly to Corner 1, said corner being the point of beginning.

"York River Rotation Area 1" means all public grounds in the York River, within Gloucester County, between a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.; upstream to a line from the Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.7427600' N., Longitude 76° 35.4906300' W.

"York River Rotation Area 2" means all public grounds in the York River, within Gloucester County, from the George P. Coleman Memorial Bridge (U.S. Route 17), upstream to a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.

4VAC20-720-40. Open oyster harvest season, harvest areas, and harvest limits.

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds, except within the dates and areas and with the harvest gears set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds, except within the seasons and areas and with the harvest gears as described in Table 1 in this subsection.

It shall be unlawful to exceed the daily individual bushel harvest limit or the daily vessel bushel limit of clean cull oysters in Table 1 in this subsection.

Table 1 Clean Cull Oyster Harvest Area, Harvest Dates, Harvest Gear, and Daily Bushel Limits				
Harvest Area	Harvest Dates	Harvest Gear	Daily Individual Bushel Limit	Daily Vessel Bushel Limit
Great Wicomico River Rotation Area 1	January December 1, 2025, through January December 31, 2025	Hand Scrape	8	16
Great Wicomico River Rotation Area 2	December January 1, 2024 2026, through December January 31, 2024 2026	Hand Scrape	8	16
James River Area 1, 2, and 3	October 16 15, 2024 2025, through March 31, 2025 2026	Hand Scrape	8	16
Middle Ground	March 1, 2025, through March 14, 2025	Hand Scrape	8	16

Regulations

Mobjack Bay Area	February 1, 2025 <u>2026</u> , through February 28, 2025 <u>March 15,</u> <u>2026</u>	Hand Scrape	8	16
Piankatank River Area	March 1, 2025 <u>February 1, 2026</u> , through March 14 <u>15, 2025</u> <u>2026</u>			
Pocomoke Sound Area Public Ground 11 <u>10</u>	November 1, 2024, through November 15, 2024 and February 1 <u>16, 2025</u> , through February 14 <u>28, 2025</u> <u>2026</u>			
Rappahannock River Area 7	December 1, 2024 <u>2025</u> , through December 31, 2024 <u>2025</u>			
Piankatank River Area	March 1, 2025 <u>February 1, 2026</u> , through March 14 <u>15, 2025</u> <u>2026</u>	Hand Scrape	8	16
Pocomoke Sound Area Public Ground 11 <u>10</u>	November 1, 2024, through November 15, 2024 and February 1 <u>16, 2025</u> , through February 14 <u>28, 2025</u> <u>2026</u>	Hand Scrape	8	16
Rappahannock River Area 7	December 1, 2024 <u>2025</u> , through December 31, 2024 <u>2025</u>	Hand Scrape	8	16
Rappahannock River Area 8	January 1, 2025 <u>2026</u> , through January 31, 2025 <u>2026</u>	Hand Scrape	8	16
Rappahannock River Rotation Area 32	February 1, 2025 <u>2026</u> , through March 14 <u>15, 2025</u> <u>2026</u>	Hand Scrape	8	16
Rappahannock River Rotation Area 54	October 16 <u>15, 2024</u> <u>2025</u> , through November 30, 2024 <u>2025</u>	Hand Scrape	8	16
Upper Chesapeake Bay - Blackberry Hangs Area	February 1, 2025 <u>2026</u> , through March 14 <u>15, 2025</u> <u>2026</u>	Hand Scrape	8	16
<u>White Shoal</u>	<u>November 1, 2025, through</u> <u>February 28, 2026</u>	<u>Hand Scrape</u>	<u>8</u>	<u>16</u>
York River Rotation Area 1	January 1, 2025, through January 31, 2025	Hand Scrape	8	16
York River Rotation Area 2	February 1, 2025, through March 14, 2025	Hand Scrape	8	16
Coan River Area	October 1, 2024, through December 31, 2024	Hand Tong	14	28
Corrotoman Hand Tong Area	October 1, 2024 2025, through March 31, 2025 <u>2026</u>	Hand Tong	14	28
Indian Creek	October 1, 2024 2025, through March 31, 2025 <u>2026</u>	Hand Tong	14	28
Great Wicomico River Hand Tong Area	October 1, 2024, through December 31, 2024	Hand Tong	14	28

James River Seed Area, including the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area	October 1, 2024 <u>2025</u> , through May 30 <u>31</u> , 2025 <u>2026</u>	Hand Tong	14	28
<u>James River Areas 1, 2, and 3</u>	<u>October 1, 2025, through October 14, 2025, and April 1, 2026, through May 31, 2026</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
Little Wicomico River	October 1, 2024 <u>2025</u> , through December 31, 2024 <u>2025</u>	Hand Tong	14	28
Milford Haven	December 1, 2024 <u>2025</u> , through February 28, 2025 <u>2026</u>	Hand Tong	14	28
<u>Mobjack Bay Area</u>	<u>October 1, 2025, through January 31, 2026</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
Nomini Creek Area	October 1, 2024 <u>2025</u> , through December 31, 2024 <u>2025</u>	Hand Tong	14	28
Piankatank River Hand Tong Area	March <u>October 1, 2025, through March 14, 2025</u> <u>January 31, 2026</u>	Hand Tong	14	28
Pocomoke Sound Area Public Ground 11 <u>10</u>	November 16, 2024, through January 31, 2025, and February 15, 2025 <u>October 1, 2025, through February 15, 2026, and March 1, 2026, through March 31, 2025</u> <u>2026</u>	Hand Tong	14	28
Pocomoke Sound Hand Tong Area Public Ground 9 and 10	November <u>October 1, 2024</u> <u>2025</u> , through March 31, 2025 <u>2026</u>	Hand Tong	14	28
Rappahannock River Area 7	October 1, 2024, through November 30, 2024, and January 1, 2025, through March 31, 2025	Hand Tong	14	28
Rappahannock River Area 8	October 1, 2024, through December 31, 2024, and February 1, 2025, through March 31, 2025	Hand Tong	14	28
Rappahannock River Area 9	October 1, 2024 <u>2025</u> , through March 31, 2025 <u>2026</u>	Hand Tong	14	28
Yeocomico River Area	October 1, 2024, through December 31, 2024	Hand Tong	14	28
<u>White Shoal</u>	<u>October 1, 2025, through October 31, 2025, and March 1, 2026, through May 31, 2026</u>	<u>Hand Tong</u>	<u>14</u>	<u>28</u>
York River Hand Tong Area	October 16 <u>1</u> , 2024 <u>2025</u> , through March 14 <u>15</u> , 2025 <u>2026</u>	Hand Tong	14	28

Regulations

York River Rotation Area <u>Areas 1 and 2</u>	<u>November 1, 2024, through December 31, 2024, and February 1, 2025, through March 31, 2025</u> <u>2026</u>	Hand Tong	14	28
York River Rotation Area 2	November 1, 2024, through January 31, 2025	Hand Tong	14	28
Hurleys Rock Area	March 1, 2025, through March 14, 2025	Oyster Dredge	8	16
Pocomoke Sound Rotation Area 2	November 16, 2024, through February 14, 2025	Oyster Dredge	8	16
<u>Pocomoke and Tangier Sound Rotation Area 2</u> <u>1</u>	December 1, <u>2024</u> <u>2025</u> , through February 28, <u>2025</u> <u>2026</u>	Oyster Dredge	8	16
<u>Thorofare</u>	<u>November 15, 2025, through November 30, 2025</u>	<u>Oyster Dredge</u>	<u>8</u>	<u>16</u>
Larsons Bay Area	October 1, 2024, through December 31, 2024	Patent Tong	8	16
Deep Rock Area and <u>Chesapeake Bay Patent Tong Area</u>	November 1, <u>2024</u> <u>2025</u> , through March 31, <u>2025</u> <u>2026</u>	Patent Tong	8	16
Rappahannock River Rotation Area 1	October 1, 2024, through December 31, 2024	Patent Tong	8	16
Seaside Eastern Shore	November 1, <u>2024</u> <u>2025</u> , through <u>April 30, 2025</u> <u>March 31, 2026</u>	By Hand or Hand Tong	14	28

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except within the dates and areas and with the harvest gears described in Table 2 in this subsection.

Table 2. Seed Oyster Harvest Area, Harvest Dates, and Harvest Gear		
Harvest Area	Harvest Dates	Harvest Gear
James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area	October 1, <u>2024</u> <u>2025</u> , through May 31, <u>2025</u> <u>2026</u>	Hand Tong

D. In the Pocomoke and Tangier Sounds Rotation Areas, it shall be unlawful to possess on board any vessel more than 250 hard clams.

E. It shall be unlawful to possess any blue crabs on board any vessel with an oyster scrape or oyster dredge.

F. It shall be unlawful for any person or vessel to harvest clean cull oysters with more than one gear type in any single day from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia.

4VAC20-720-70. Gear restrictions.

A. It shall be unlawful for any person to harvest oysters in the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, except by hand tong. It shall be unlawful for any person to have a hand scrape or oyster dredge on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong. When used in catching of seed oysters, hand tongs shall be operated entirely by hand, from the surface of the water and have no external or internal power source. When used in catching clean cull oysters, hand tongs may use power to assist lifting the tongs with a single lifting cable or rope attached at only a single point on one shaft of the tongs.

B. It shall be unlawful to harvest oysters by any gear from the seaside of the Eastern Shore except by hand or hand tong. It shall be unlawful to harvest oysters that are not submerged at mean low water by any gear other than by hand.

C. It shall be unlawful for any person to have more than one hand scrape on board his vessel while he is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board his vessel while he is harvesting or attempting to harvest oysters from public grounds by hand scrape.

VA.R. Doc. No. R26-8478; Filed October 1, 2025, 6:34 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

REGISTRAR'S NOTICE: The State Board of Education 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: 8VAC20-790. Child Care Program (amending 8VAC20-790-10, 8VAC20-790-40).

Statutory Authority: §§ 22.1-16 and 22.1-289.046 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Summary:

Pursuant to Item 125.10 of Chapter 725 of the 2025 Acts of Assembly, Special Session I, the amendments revise Child Care Subsidy Program (CCSP) family copayments and eligibility so that (i) most families will contribute 5.0% of family income as copayment, no family will pay more than 5.0% of income, and families below the poverty level will owe \$5.00 per child monthly; and (ii) the amount of time families are eligible for CCSP services while looking for work is limited to 90 days, with up to one 90-day extension for extraordinary circumstances.

8VAC20-790-10. Definitions.

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

"Administrative disqualification hearing" or "ADH" means an impartial review by a state hearing officer of a recipient's actions involving an alleged intentional program violation for

the purpose of determining if the individual did or did not commit an intentional program violation.

"Applicant" means a person who has applied for child care services and the disposition of the application has not yet been determined.

"Assets" means resources owned by a person or company regarded as having value and available to meet debts and commitments.

"Background checks" means the checks for barrier crimes and offenses required under Article 5 (§ 22.1-289.034 et seq.) of Chapter 14.1 of Title 22.1 of the Code of Virginia, including the sworn statement or affirmation as is required by Article 5; the criminal history record check; and the Child Protective Services Central Registry check.

"Child care subsidy and services" or "Child Care Subsidy Program" means the department program that assists eligible low-income families with the cost of child care and those activities that assist eligible families in the arrangement for or purchase of child care for children for care that is less than a 24-hour day. It also includes activities that promote parental choice, consumer education to help parents make informed choices about child care, activities to enhance health and safety standards established by the state, and activities that increase and enhance child care and early childhood development resources in the community.

"Child experiencing homelessness" means a child who lacks a fixed, regular, and adequate nighttime residence and includes:

1. A child who is living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar settings;
2. A child who is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as "doubled-up");
3. A child who is living in a motel, hotel, trailer park, or camping grounds due to lack of alternative adequate accommodations;
4. A child who is living in congregate, temporary, emergency, or transitional shelters;
5. A child who is abandoned in a hospital;
6. A child who is living in a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; and
7. A child who is a migratory child as defined in § 1309 of the Elementary and Secondary Education Act of 1965, P.L. No. 89-10 (20 USC § 6399) who qualifies as homeless because he is living in circumstances described in clauses (i) through (iii) of 42 USC § 11432a(2)(8).

Regulations

"Child protective services" means the identification, receipt, and immediate response to complaints and reports of alleged child abuse or neglect for children ~~under~~ younger than 18 years of age. It also includes assessment and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child with special needs or disability" means (i) a child with a disability as defined in § 602 of the Individuals with Disabilities Education Act (20 USC § 1401); (ii) a child who is eligible for early intervention services under Part C of the Individuals with Disabilities Education Act (20 USC § 1431 et seq.); (iii) a child who is younger than 13 years of age and who is eligible for services under § 504 of the Rehabilitation Act of 1973 (29 USC § 794); and (iv) a child with a documented developmental disability, intellectual disability, emotional disturbance, sensory or motor impairment, or significant chronic illness who requires special health surveillance or specialized programs, interventions, technologies, or facilities.

"Conditional eligibility" means ~~that an eligibility has been approved approval~~ for a period not to exceed 90 days to allow (i) families with a child experiencing homelessness additional time or (ii) families under job search, not to exceed 90 days, in order to obtain required documentation needed to complete a final eligibility determination.

"Copayment" means the amount paid to the provider by the parent to contribute toward the cost of child care. Such amount shall be established by the department in accordance with the current Child Care and Development Fund Plan for Virginia, approved by the U.S. Department of Health and Human Services. Copayments do not include charges above the maximum reimbursable rate, or charges for registration, activities, or transportation.

"Department" means the Virginia Department of Education.

"Exit eligibility limit" means the maximum gross countable income amount that a family can receive to be considered income eligible at redetermination. Such amount shall be established by the department in the current Child Care and Development Plan for Virginia approved by the U.S. Department of Health and Human Services.

"Family" means any adult or emancipated minor and children related by blood, marriage, adoption, or an expression of kinship who function as a family unit.

"Federal poverty guidelines" means the income levels by family size, determined by the U.S. Department of Health and Human Services, used as guidelines in determining at what level families in the country are living in poverty.

"Fee" means a charge for a service and may include copayments, charges above the maximum reimbursable rate, or charges for registration, activities, or transportation.

"Fee Program" means a category in the child care subsidy program that assists low income, non-TANF families with child care services.

"Fiscal year" means the local department financial calendar that begins in June of each calendar year and runs through May of the following calendar year.

"Graduated phase out" means the period of time for child care subsidy and services to continue as determined by the local department at redetermination for recipients whose income exceeds the initial eligibility limit but is below the exit eligibility limit.

"Head Start" means the comprehensive federal child development programs that serve children from birth through ~~age~~ five years of age, pregnant women, and their families (as established by the Head Start Act (42 USC § 9801)).

"Income eligible" means that eligibility for assistance under the Child Care Subsidy Program is based on income and family size.

"In-home" means child care provided in the home in which all of the children in care reside and in which the provider does not reside.

"Initial eligibility limit" means the maximum gross countable income amount that a family can receive to be considered income eligible. Such amount shall be established by the department in the current Child Care and Development Plan for Virginia approved by the U.S. Department of Health and Human Services.

"Intentional program violation" or "IPV" means any action by an individual for the purpose of establishing or maintaining the family's eligibility for assistance under the Child Care Subsidy Program or for increasing or preventing a reduction in the amount of the assistance by (i) intentionally giving a false or misleading statement or misrepresenting, concealing, or withholding facts or (ii) any act intended to mislead, to misrepresent, conceal, or withhold facts, or to propound a falsity.

"Level one provider" means a child care provider that is not licensed by the department or is not approved (i) by a licensed family day system, (ii) under a local ordinance in accordance with §§ 15.2-741 and 15.2-914 of the Code of Virginia, or (iii) by the federal government.

"Level two provider" means a child care provider that is licensed by the department or is approved (i) by a licensed family day system, (ii) under local ordinance in accordance with §§ 15.2-741 and 15.2-914 of the Code of Virginia, or (iii) by the federal government.

"Local department" means the local department of social services of any county or city in ~~this~~ the Commonwealth.

"Maximum reimbursable rate" means the maximum rate paid for child care services through the subsidy program that is

established by the department and set out in the current Child Care and Development Fund Plan for Virginia filed with the U.S. Department of Health and Human Services.

"Need for child care" means the parents meet the income eligibility and employment or education requirements set forth in this chapter and require child care services for part of the day.

"Nonfraud overpayment" means an overpayment that is the result of a local department error or an inadvertent household or provider error.

"Parent" means the adult or emancipated minor, as defined in § 16.1-334 of the Code of Virginia, who acts as the primary caretaker or guardian of a child, including an individual acting in loco parentis. A parent may be by blood, marriage, or adoption and also means a legal guardian, person cohabiting with the natural or adoptive parent of a minor child, or other person standing in loco parentis.

"Provider" or "child care provider" means a person, entity, or organization providing child care services.

"Resource and referral" means services that provide information to parents to assist them in choosing a child care provider and may include assessment of the family's child care needs, collection and maintenance of information about child care needs in the community, and efforts to improve the quality and increase the supply of child care.

"Service plan" means the written, mutually agreed upon activities and responsibilities between the local department and the parent in the provision of assistance for child care services under the Child Care Subsidy Program.

"Superintendent" means Superintendent of Public Instruction or ~~his~~ the superintendent's designee.

"Supplemental Nutrition Assistance Program" or "SNAP" means the program administered by the U.S. Department of Agriculture to reduce hunger and increase food security.

"Supplemental Nutrition Assistance Program Employment and Training" or "SNAPET" means the program that provides job search, job search training, education, training, and work experience to nonpublic assistance SNAP recipients.

"TANF assistance unit" means a household composed of an individual or individuals who meet all categorical requirements and conditions of eligibility for TANF.

"TANF capped child" means a child who the TANF worker has determined ineligible for inclusion in the TANF assistance unit because the child was born more than 10 full months after the mother's initial TANF payment was issued.

"Temporary Assistance for Needy Families" or "TANF" means the program authorized in § 406 of the Social Security Act (42 USC § 606) and administered by the department

through which a relative can receive monthly cash assistance for the support of ~~his~~ the relative's eligible children.

"Transitional child care" means the program that provides child care subsidy assistance to eligible former TANF recipients after the TANF case closes.

"Vendor" means a legally operating child care provider who is approved by the department to participate in the Child Care Subsidy Program. Multiple facilities or sites operated by the same person, entity, or organization are considered separate vendors.

"Vendor agreement" means the agreement between the department and a child care vendor that must be entered into and signed before child care payments under the Child Care Subsidy Program can be authorized.

"Virginia Initiative for Education and Work" or "VIEW" means the program of employment opportunities to assist individuals receiving Temporary Assistance for Needy Families in attaining the goal of self-sufficiency as implemented in the Commonwealth of Virginia.

8VAC20-790-40. Case management.

A. Applicants for child care subsidy and services must be at least 18 years of age unless ~~they are~~ the applicant is an emancipated minor.

B. Applicants are required to sign an application, provide verification of identity, and cooperate with an assessment by the local department of social services.

C. At initial eligibility determination, a family with a child experiencing homelessness that cannot provide the required documentation may be conditionally approved for services for a period not to exceed 90 days. The final eligibility determination shall be completed once the 90 days has expired or full documentation is provided. No payments made prior to the final eligibility determination shall be considered an error or improper payment. Families with a child experiencing homelessness shall receive priority placement on the waiting list, if applicable.

D. A family with a child care need under job search may be conditionally eligible for services, with up to one extension for extraordinary circumstances.

E. Consumer education, including education on the selection and monitoring of quality child care and how to access information regarding the selected vendor as to the (i) health and safety requirements met by the vendor, (ii) licensing or regulatory requirements met by the vendor, (iii) date the vendor was last inspected and any history of violations, and (iv) any voluntary quality standards met by the vendor, must be provided to parents to assist the parents in gaining needed information about the availability of child care services and providers. Parents must also be provided information on how to obtain a developmental screening for a child.

Regulations

~~E. F.~~ The department shall establish scales for determining financial eligibility for the income eligible child care subsidy program categories in subdivision 2 of 8VAC20-790-30.

1. Any family that receives public assistance through Medicaid or the Special Supplemental Nutrition Program for Women, Infants, and Children shall be deemed to categorically satisfy income eligibility requirements to receive assistance under this chapter.

2. Recipients in the TANF child care program category shall be considered income eligible based on receipt of TANF; the local department shall not be required to verify their income.

3. At initial eligibility determination, income eligibility shall be determined by measuring the family's countable income and size against the percentage of the federal poverty guidelines for the family's locality. The family's income cannot exceed 85% of the state median income.

4. At redetermination, if a recipient family's countable income exceeds the initial eligibility limit, the family shall be considered income eligible until its countable income meets or exceeds the exit eligibility limit established by the department. The family's income cannot exceed 85% of the state median income.

~~F. G.~~ Families receiving child care subsidy and services shall be required to pay a copayment ~~unless the family's gross monthly income is at or below the federal poverty guidelines.~~ The copayment amount will be based on a scale set out in the current Child Care and Development Fund Plan for Virginia. Copayments may be increased at redetermination and during graduated phase out if the family's countable income exceeds the initial eligibility limit but is below the exit eligibility limit. Local departments shall be required to act on changes reported by the family that would reduce the family's copayment during the 12-month eligibility period.

~~G. H.~~ Income to be counted in determining income eligibility includes all earned and unearned income received by the family except the following:

1. Supplemental Security Income;
2. TANF benefits;
3. Transitional payments of \$50 per month to former VIEW participants;
4. Diversionary assistance payments;
5. General relief;
6. SNAP benefits;
7. Value of U.S. Department of Agriculture donated food;
8. Benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965;

9. Value of supplemental food assistance under the Child Nutrition Act of 1996 and lunches provided under National School Lunch Act;

10. Earnings of a child younger than 18 years of age;

11. Earned income tax credit;

12. Lump sum child support arrears payments;

13. Scholarships, loans, or grants for education, except any portion specified for child care;

14. Basic allowance for housing for military personnel living on base;

15. Clothing maintenance allowance for military personnel;

16. Payments received by AmeriCorps volunteers;

17. Tax refunds;

18. Lump sum insurance payments;

19. Monetary gifts for one-time occasions or normal annual occasions;

20. Payments made by non-financially responsible third parties for household obligations, unless payment is made in lieu of wages;

21. Loans or money borrowed;

22. Money received from sale of property;

23. Earnings less than \$25 a month;

24. Capital gains;

25. Withdrawals of bank deposits;

26. GI Bill benefits;

27. Reimbursements, such as for mileage;

28. Foreign government restitution payments to Holocaust survivors;

29. Payments from the Agent Orange Settlement Fund or any other fund established for settlement of Agent Orange product liability litigation; and

30. Monetary benefits provided to the children of Vietnam Veterans as described in 38 USC § 1823(c).

The amount of wages subject to garnishment and the amount of child support paid to another household shall be deducted from the family's income.

~~H. I.~~ The eligibility period for TANF (nonVIEW), transitional child care, Fee Program, and Head Start begins with the effective date of the approval of the child care subsidy and services application. The eligibility period for VIEW and SNAPET participants begins with the date of referral from the VIEW or SNAPET program.

~~I. J.~~ Recipients will be eligible for child care subsidy and services for a minimum of 12 months before eligibility is redetermined, unless:

1. The recipient's countable income exceeds 85% of state median income. Temporary increases in income will not affect eligibility or family copayments, including monthly income fluctuations that when taken in isolation may incorrectly indicate that a recipient's income exceeds 85% of state median income.
2. There is a finding that the recipient committed an intentional program violation.
3. The recipient is no longer a resident of Virginia.
4. The recipient requests that the child care subsidy and services case be closed.
5. The recipient is a family of a child experiencing homelessness that was approved as conditionally eligible and failed to provide necessary documentation to the local department within 90 days, or the recipient is determined ineligible after full documentation is provided.

6. The recipient is a family with a child care need under job search that was approved as conditionally eligible and:

- a. After the first 90 days, failed to provide documentation verifying employment or participation in another approved activity and was not approved for an extension; or
- b. After the 90-day extension, failed to provide documentation verifying employment or participation in another approved activity.

~~J. K.~~ Recipients will retain eligibility despite any change in residency within the state.

~~K. L.~~ Recipients will retain eligibility despite any eligible child turning 13 years of age during the 12-month eligibility period.

~~L. M.~~ The beginning date of service payment for TANF (nonVIEW), transitional child care, Fee Program, and Head Start participants may begin with the date the applicant is determined eligible and a vendor approved by the department is selected. The beginning date of service payment for VIEW or SNAPET participants may begin with the date of referral from the VIEW or SNAPET program if the applicant is determined eligible and a vendor approved by the department is selected.

1. Eligibility must be determined within 30 days of receipt of a signed application or referral from VIEW or SNAPET by the local department.
2. Payment cannot be made to any provider prior to the effective date of the provider's approval by the department as a vendor.

~~M. N.~~ Eligibility will be redetermined in the final month of the 12-month eligibility period described in subsection I of this

section, at which time the recipient will be contacted in order to have all eligibility criteria reevaluated. The local department's contact with the recipient should not unduly disrupt a parent's work schedule. Recipients shall not be required to appear in person for eligibility redetermination.

~~N. O.~~ Child care case managers shall prepare a written service plan for each child care case with the applicant or recipient. The service plan shall state the activities and responsibilities of the local department and the parent in the provision of child care services. The VIEW Activity and Service Plan will serve as the service plan for parents active in VIEW. If the parents are SNAPET participants, the SNAPET Plan of Participation will serve as the service plan.

~~O. P.~~ Recipients shall be required to:

1. Report to the local department the following changes within 10 calendar days of the change:
 - a. Countable income that exceeds 85% of the state median income.
 - b. Recipient is no longer a resident of Virginia or the county in which the recipient is receiving services.
2. Pay all fees owed to the vendor not paid for under the Child Care Subsidy Program or reimbursements owed to the local department; failure to do so may result in case closure at redetermination.
3. Reimburse the local department for any overpayment made as a result of fraud, intentional program violation, or an inadvertent household error.

The local department shall inform recipients of child care subsidy and services of these responsibilities.

~~P. Q.~~ Adequate documentation supporting the reasons for termination must be filed in the case record.

~~Q. R.~~ When sufficient funds are not available, local departments of social services must screen applicants for potential eligibility and place the applicants on the department's waiting list unless the family declines placement.

~~R. S.~~ Applicants and recipients will be afforded due process through timely written notices of any action determining or affecting eligibility for services or copayment amount. Such written notice shall include the reason for the action and the notice of appeal rights and procedures, including the right to a fair hearing if the applicant or recipient is aggrieved by the local department's action or failure to act on an application. If a recipient requests an appeal prior to the effective date of any proposed action and if the continuation of services is requested by the parent, child care services will continue until a decision is rendered by a hearing officer. If the decision of the local department is upheld by the hearing officer, the recipient must repay the amount of services paid during the appeal process.

VA.R. Doc. No. R26-8370; Filed September 18, 2025; 6:00 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Effective Date

Title of Regulation: **9VAC25-260. Water Quality Standards (amending 9VAC25-260-310, 9VAC25-260-490).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; Clean Water Act (33 USC § 1251 et seq.); 40 CFR Part 131.

On March 27, 2025, the State Water Control Board adopted revisions to the Water Quality Standards in 9VAC25-260-310 and 9VAC25-260-490. These revisions add site-specific freshwater selenium criteria for the protection of aquatic life to the Water Quality Standards for Virginia. The amendments were published in final form in [41:23 VA.R. 2515-2517 June 30, 2025](#), to be effective upon filing notice of U.S. Environmental Protection Agency (EPA) approval with the Registrar of Regulations. The State Water Control Board has received a letter from Michelle Price-Fay, EPA Region III Water Division Director, dated September 23, 2025, approving all the amendments.

The effective date of the approved amendments is September 25, 2025. Copies are available online at <https://townhall.virginia.gov/L/viewstage.cfm?stageid=10729> or from the agency contact listed.

Effective Date: September 25, 2025.

Agency Contact: David Whitehurst, Water Quality Standards Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-9180, or email david.whitehurst@deq.virginia.gov.

VA.R. Doc. No. R24-7765; Filed September 29, 2025, 10:00 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

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

Title of Regulation: **12VAC5-31. Virginia Emergency Medical Services Regulations (amending 12VAC5-31-790).**

Statutory Authority: §§ 32.1-12 and 32.1-111.4 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Ron Passmore, Director, Regulation and Compliance, Office of Emergency Medical Services, Virginia Department of Health, 1001 Technology Park Drive, Glen Allen, VA 23059-4500, telephone (804) 888-9131, or email ron.passmore@vdh.virginia.gov.

Summary:

Pursuant to Chapter 459 of the 2025 Acts of Assembly, the amendments authorize combination fire department and emergency medical services (EMS) agencies operating under a single EMS license or certification to display the fire department logo and lettering in a size larger than that used to identify the EMS agency name.

12VAC5-31-790. EMS vehicle letter restrictions and specifications.

A. ~~The following specifications apply to an EMS vehicle:~~ the EMS agency name must appear in lettering larger than any optional lettering on an EMS vehicle, other than "Ambulance," the unit identification number, or any lettering on the roof. Optional lettering, logos, or emblems may not appear on an EMS vehicle in a manner that interferes with the public's ability to readily identify the EMS agency to which the EMS vehicle is permitted.

1. Additional lettering, logos, or emblems must not advertise or imply a specified patient care level (i.e., Advanced Life Support Unit) unless the EMS vehicle is so equipped at all times.

2. The terms "Paramedic" or "Paramedical" may only be used when the EMS vehicle is both equipped and staffed by a state certified ~~Paramedic~~ paramedic at all times.

B. Notwithstanding the provisions of subsection A of this section, an EMS vehicle of a combination fire department and EMS agency operating under a single EMS agency license, in accordance with established policies for identifying both the EMS agency license holder and the fire department, may display a fire department logo or lettering larger than the lettering identifying the EMS agency name.

~~C.~~ A nontransport response vehicle with a primary purpose as a fire apparatus or law-enforcement vehicle is not required to comply with the specifications for vehicle marking and lettering, provided the vehicle is appropriately marked and lettered to identify it as an authorized emergency vehicle.

~~C.~~ D. An unmarked vehicle operated by an EMS agency is not eligible for issuance of an EMS vehicle permit except a vehicle used and operated by law-enforcement personnel.

VA.R. Doc. No. R26-8384; Filed September 19, 2025, 3:00 p.m.

Final Regulation

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

Title of Regulation: 12VAC5-220. **Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (amending 12VAC5-220-100, 12VAC5-220-270).**

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Val Hornsby, Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Henrico, VA 23233, telephone (804) 875-1089, or email val.hornsby@vdh.virginia.gov.

Summary:

The amendments conform the regulation to statutory changes (i) pursuant to Chapters 114 and 135 of the 2025 Acts of Assembly to allow critical access hospitals to use up to 10 beds as swing beds under specific conditions and (ii) pursuant to Chapter 325 of the 2025 Acts of Assembly to allow the Commissioner of Health to condition a certificate of public need for psychiatric services at a facility on the acceptance of temporary detention orders by that facility.

12VAC5-220-100. Requirements for reviewable medical care facility projects; exceptions.

A. Prior to initiating a reviewable medical care facility project the owner or sponsor shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in 12VAC5-220-120 shall be met.

B. Projects involving a temporary increase in the total number of beds in an existing hospital or nursing home shall be exempt from the requirement for a certificate, for a period of no more than 30 days, if the commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.

C. No certificate of public need shall be required for use of up to 10 beds per day among the medical care facility's inpatient hospital beds as swing beds for the furnishing of services of the type that if furnished by a nursing home or certified nursing facility would constitute skilled care services by a medical care facility described in § 32.1-102.1:3 A 1 of the Code Virginia that is certified as a critical access hospital

by the Centers for Medicare and Medicaid Services pursuant to Title XVIII of the Social Security Act (42 USC § 1395 et seq.). For purposes of this subsection, a critical access hospital may calculate the 10-swing-bed-per-day limitation as an average over the fiscal year of the hospital. In the event the calculation exceeds an average of equal to or fewer than 10 swing beds in any fiscal year, the critical access hospital shall have the following fiscal year to reduce the fiscal year average to equal to or fewer than 10 swing beds. Any critical access hospital that fails to reduce the fiscal year average to equal to or fewer than 10 swing beds during the second fiscal year shall no longer be able to calculate the 10-swing-bed limitation by averaging on a fiscal year basis and shall calculate the limitation on a daily basis until such time as it has met the 10-swing-bed-per-day limit for two consecutive fiscal years, at which time averaging may resume. No critical access hospital shall have more than 15 swing beds per day for more than five consecutive days. A critical access hospital shall make a good faith effort and document the efforts made to place each additional patient in a certified nursing facility prior to exceeding the 10-swing-bed-per-day limit.

12VAC5-220-270. Action on an application.

A. Commissioner's responsibility. Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Medical Facilities Plan. However, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are not relevant to a rural locality's needs, inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Conditions of approval.

1. The commissioner may condition the approval of an application for a project (i) on the agreement by the applicant to provide an acceptable level of care at a reduced rate to indigents, or (ii) on the agreement of the applicant to provide care to persons with special needs, or (iii) upon the agreement of the applicant to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area. The terms of such agreements shall be specified in writing prior to the commissioner's decision to approve a project. Any person willfully refusing, failing, or neglecting to honor such agreement shall be subject to a civil penalty of \$100 per violation per day from the date of receipt from the department of written notice of noncompliance until the date of compliance. Upon information and belief that a person has failed to honor such agreement in accordance with this provision, the department shall notify the person in writing,

Regulations

and 15 days shall be provided for response in writing including a plan for immediate correction. In the absence of an adequate response or necessary compliance or both, a judicial action shall be initiated in accordance with the provisions of § 32.1-27 of the Code of Virginia.

~~B.~~ 2. Pursuant to the regulations of the board, the commissioner may condition the approval of a certificate for any project to (i) establish a medical care facility pursuant to § 32.1-102.1:3 A 2 of the Code of Virginia; (ii) introduce a psychiatric service pursuant to § 32.1-102.1:3 B 5 of the Code of Virginia; or (iii) add psychiatric beds to an existing medical care facility described in § 32.1-102.1:3 A 1 or A 2 of the Code of Virginia upon the agreement of the applicant to provide care to individuals who are the subject of an involuntary temporary detention pursuant to § 37.2-809 of the Code of Virginia.

C. Notification process-extension of review time. The commissioner shall make a final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency within the ~~time frames~~ timeframes specified in 12VAC5-220-230 B unless authorization is given by the applicant ~~or applicants~~ to extend the time period. Such written notification shall also reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of this chapter, between the commissioner and the applicant.

VA.R. Doc. No. R26-8329; Filed September 19, 2025, 12:53 p.m.

Final Regulation

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

Title of Regulation: 12VAC5-371. **Regulations for the Licensure of Nursing Facilities (amending 12VAC5-371-10, 12VAC5-371-160, 12VAC5-371-191, 12VAC5-371-300).**

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Val Hornsby, Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Henrico, VA 23233, telephone (804) 875-1089, or email val.hornsby@vdh.virginia.gov.

Section 28.2-210 of the Code of Virginia states that if an emergency necessitates the adoption of a regulation for the immediate preservation of the public peace, health, safety, and welfare, or the protection of the seafood industry, natural resources or marine organisms, the Commission may adopt an emergency regulation.

The amendments conform the regulation to statutory changes (i) pursuant to Chapter 330 of the 2025 Acts of Assembly to specify the minimum amount of professional liability coverage and general liability coverage required for nursing homes and certified nursing facilities and to require nursing homes and certified nursing facilities to provide proof of such coverage; (ii) pursuant to Chapter 432 of the 2025 Acts of Assembly to permit residents of nursing facilities to have electronic monitoring devices placed in their rooms and to establish requirements for the placement and utilization of any such electronic monitoring device; and (iii) pursuant to Chapter 277 of the 2025 Acts of Assembly to allow advanced registered medication aides to administer drugs to long-term care residents who do not have a clinical condition that requires evaluation by a registered nurse or licensed practical nurse for the administration of medications and to limit the practice of advanced registered medication aides to nursing homes licensed by the Virginia Department of Health.

12VAC5-371-10. Definitions.

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

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish, or deprivation by an individual, including caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. This includes verbal, sexual, physical, or mental abuse.

"Administrator" means the individual licensed by the ~~Virginia~~ Board of Long-Term Care Administrators and who has the necessary authority and responsibility for management of the nursing facility.

"Admission" means the process of acceptance into a nursing facility, including orientation, rules and requirements, and assignment to appropriate staff. Admission does not include readmission to the facility after a temporary absence.

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time ~~he~~ the declarant is diagnosed as suffering from a terminal condition and in accordance with the provision of § 54.1-2983 of the Code of Virginia.

"Assessment" means the process of evaluating a resident for the purpose of developing a profile on which to base services. Assessment includes information gathering, both initially and on an ongoing basis, designed to assist the multi-disciplinary staff in determining the resident's need for care, and the collection and review of resident-specific data.

"Attending physician" means a physician currently licensed by the ~~Virginia~~ Board of Medicine and identified by the resident, or legal representative, as having the primary responsibility in determining the delivery of the resident's medical care.

"Barrier crime" means any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia.

"Board" means the State Board of Health.

"Cannabidiol oil" means the same as the term is defined in ~~subsection A of~~ § 54.1-3408.3 A of the Code of Virginia.

"Certified nurse aide" means the title that can only be used by individuals who have met the requirements to be certified, as defined by the ~~Virginia~~ Board of Nursing, and who are listed in the nurse aide registry.

"Chemical restraint" means a psychopharmacologic drug (a drug prescribed to control mood, mental status, or behavior) that is used for discipline or convenience and not required to treat medical symptoms or symptoms from mental illness or mental retardation that prohibit an individual from reaching his highest level of functioning.

"Clinical record" means the documentation of health care services, whether physical or mental, rendered by direct or indirect resident-provider interactions. An account compiled by physicians and other health care professionals of a variety of resident health information, such as assessments and care details, including testing results, medicines, and progress notes.

"Commissioner" means the State Health Commissioner.

"Complaint" means any allegation received by the Virginia Department of Health other than an incident reported by the facility staff. Such allegations include abuse, neglect, exploitation, or violation of state or federal laws or regulations.

"Comprehensive plan of care" means a written action plan, based on assessment data, that identifies a resident's clinical and psychosocial needs, the interventions to meet those needs, treatment goals that are measurable and that documents the resident's progress toward meeting the stated goals.

"Construction" means the building of a new nursing facility or the expansion, remodeling, or alteration of an existing nursing facility and includes the initial and subsequent equipping of the facility.

"Criminal record report" means either the criminal record clearance with respect to convictions for barrier crimes or the criminal history record from the Central Criminal Records Exchange of the Virginia Department of State Police.

"Department" means the Virginia Department of Health.

"Dignity" means staff, in their interactions with residents, carry out activities ~~which that~~ assist a resident in maintaining and enhancing the resident's self-esteem and self-worth.

"Discharge" means the process by which the resident's services, delivered by the nursing facility, are terminated.

"Discharge summary" means the final written summary of the services delivered, goals achieved, and post-discharge plan or final disposition at the time of discharge from the nursing facility. The discharge summary becomes a part of the clinical record.

"Drug" means (i) articles or substances recognized in the official United States "Drug" Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or other animal; and (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii). This does not include devices or their components, parts or accessories.

"Electronic monitoring" means ~~an unmanned~~ the use of a surveillance device with a fixed position video camera or recording system with or without audio capability installed in the device, or a combination thereof, that is installed in a resident's room of a resident and broadcasts or records activities or sounds occurring within the confines of the room. Electronic monitoring does not include use of a device that enables audio communication into the resident's room from another source.

"Emergency preparedness plan" means a component of a nursing facility's safety management program designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing facility's ability to provide care.

"Employee" means a person who performs a specific job function for financial remuneration on a full-time or part-time basis.

"Facility-managed" means an electronic monitoring system that is installed, controlled, and maintained by the nursing facility with the knowledge of the resident or legal representative in accordance with the facility's policies.

Regulations

"Family member" means the resident's spouse, parent, stepparent, child, stepchild, brother, sister, half-brother, half-sister, grandparent, or grandchild.

"Full-time" means a minimum of 35 hours or more worked per week in the nursing facility.

"Intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as digital assistants or virtual assistants.

"Legal representative" means a person legally responsible for representing or standing in the place of the resident for the conduct of ~~his~~ the resident's affairs. This may include a guardian, conservator, attorney-in-fact under durable power of attorney, trustee, or other person expressly named by a court of competent jurisdiction or the resident as ~~his~~ the resident's agency in a legal document that specifies the scope of the representative's authority to act. A legal representative may only represent or stand in the place of a resident for the function for which ~~he~~ the representative has legal authority to act.

"Medication" means any substance, whether prescription or over-the-counter drug, that is taken orally or injected, inserted, topically applied, or otherwise administered.

"Neglect" means a failure to provide timely and consistent services, treatment, or care to a resident necessary to obtain or maintain the resident's health, safety, or comfort or a failure to provide timely and consistent goods and services necessary to avoid physical harm, mental anguish, or mental illness.

"Nursing facility" means any nursing home as defined in § 32.1-123 of the Code of Virginia.

"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.

"Person" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, owning, managing, or operating a nursing facility.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's own body.

"Policy" means a written statement that describes the principles and guides and governs the activities, procedures, and operations of the nursing facility.

"Procedures" means a series of activities designed to implement program goals or policy, which may or may not be written, depending upon the specific requirements within this chapter. For inspection purposes, there must be evidence that procedures are actually implemented.

"Progress note" means a written statement, signed and dated by the person delivering the care, consisting of a pertinent, chronological report of the resident's care. A progress note is a component of the clinical record.

"Qualified" means meeting current legal requirements of licensure, registration, or certification in Virginia; having appropriate training and experience commensurate with assigned responsibilities; or, if referring to a professional, possessing an appropriate degree or having documented equivalent education, training or experience.

"Quality assurance" means systematic activities performed to determine the extent to which clinical practice meets specified standards and values with regard to such things as appropriateness of service assignment and duration, appropriateness of facilities and resources utilized, adequacy, and clinical soundness of care given. Such activities should also ~~assure~~ ensure changes in practice that do not meet accepted standards. Examples of quality assurance activities include the establishment of facility-wide goals for resident care, the assessment of the procedures used to achieve the goals, and the proposal of solutions to problems in attaining those goals.

"Readmission" means a planned return to the nursing facility following a temporary absence for hospitalization, off-site visit or therapeutic leave, or a return stay or confinement following a formal discharge terminating a previous admission.

"Resident" means the primary service recipient, admitted to the nursing facility, whether that person is referred to as a client, consumer, patient, or other term.

"Resident-managed" means an electronic monitoring system that is installed, controlled, and maintained by the resident with the knowledge of the nursing facility.

"Supervision" means the ongoing process of monitoring the skills, competencies, and performance of the individual supervised and providing regular, face-to-face guidance and instruction.

"Sworn disclosure" means a written statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or outside the Commonwealth, by an applicant for compensated employment with a nursing facility.

"THC-A oil" means the same as the term is defined in ~~subsection A of~~ § 54.1-3408.3 A of the Code of Virginia.

"Volunteer" means a person who, without financial remuneration, provides services to the nursing facility.

12VAC5-371-160. Financial controls and resident funds.

A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).

B. Each nursing facility shall maintain, per facility, noneroding general liability insurance coverage in a minimum amount of \$1 million per occurrence, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 of the Code of Virginia per patient occurrence, to compensate residents or individuals for injuries and losses resulting from the negligent or criminal acts of the nursing facility. Failure to maintain minimum insurance limits under this section shall result in revocation of the nursing facility's license. Each nursing facility shall provide at licensure renewal or have available to the board proof of the insurance coverages as required by this subsection.

C. Nursing facilities choosing to handle resident funds shall:

1. Comply with § 32.1-138 A 7 of the Code of Virginia regarding resident funds;
2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the nursing facility; and
3. Provide for separate accounting for resident funds.

D. In the event the nursing facility is sold, the nursing facility shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.

E. Each nursing facility shall be required to provide a full refund of any unexpended patient funds on deposit with the nursing facility following the discharge or death of a patient, other than entrance related fees, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the patient's estate in accordance with the Virginia Small Estate Act (§ 64.2-600 et seq. of the Code of Virginia).

12VAC5-371-191. Electronic monitoring in resident rooms.

A. All requests for electronic monitoring shall be made in writing and signed by the resident or, if the resident has been legally deemed incompetent, the resident's legal representative if the resident has been properly assessed incapable of requesting and authorizing the monitoring.

B. ~~Only electronic~~ Electronic monitoring in accordance with this section is shall be permitted only:

1. Upon the informed consent of the resident or resident's legal representative, which shall be obtained prior to the installation or use of any electronic monitoring device. Consent for electronic monitoring shall be kept in the resident's medical record;
2. If the resident resides:
 - a. In a room with no roommates; or
 - b. In a room with roommates and obtains written consent to visual recording from the roommates or, if a roommate

has been legally deemed incompetent, the roommate's legal representative. If a resident resides with roommates, only video electronic monitoring shall be permitted pursuant to this subsection;

3. Upon execution of an agreement for the sharing and release of medical data and information protected by the federal Health Insurance Portability and Accountability Act of 1996 (42 USC § 1320d et seq.) signed by the resident or resident's legal representative or, if applicable, any such agreement signed by a roommate or roommate's legal representative shall be kept in all consenting individuals' medical records; and

4. If the nursing facility has secured and password-protected wireless Internet access or other means available to operate the electronic monitoring device without modification to the nursing facility or a change in level or capacity of Internet access.

C. A nursing facility shall allow electronic monitoring of a resident of a nursing facility if the electronic monitoring is conducted in accordance with this section. A nursing facility shall not refuse to admit an individual and shall not discharge or transfer a resident due to a request to conduct authorized electronic monitoring.

~~D. Family members cannot obtain~~ No family member may implement or activate electronic monitoring over the objections of or contrary to the instructions of the resident, the resident's roommate, or the resident's legal representative. No electronic monitoring equipment may be installed pursuant to subsection Q of this section over the objections of or contrary to the instructions of the resident or resident's legal representative. Nursing facilities shall not use monitoring equipment in violation of the law based solely on a family member's request or approval.

~~E. Consent for electronic monitoring shall be kept in the resident's medical record.~~

~~F. Nursing facilities~~ E. A nursing facility shall designate one or more staff person persons to be responsible for managing the point of contact for electronic monitoring program requests and for providing information and policies upon request during normal business hours.

~~G. Nursing facilities may designate custodial ownership of any recordings from monitoring devices to the resident or legal representative.~~ F. Nursing facility retained recordings shall be considered part of the resident's medical record and shall be retained for no less a time period than two years or as required by state and federal laws. Except as provided in subsection O of this section, a nursing facility may assume custodial ownership of any recordings from electronic monitoring devices from the resident or resident's legal representative. Recordings from electronic monitoring devices shall not be considered part of the resident's medical record.

Regulations

~~H. G.~~ If a nursing facility chooses to ~~retain~~ assume ownership of recordings from electronic monitoring devices pursuant to subsection F of this section, the nursing facility shall not permit viewings of recordings without consent of the resident or legal representative except to the extent that disclosure is required by law ~~through a court order or pursuant to a lawful subpoena duces tecum~~. ~~Should the resident or legal representative approve viewing, the nursing facility shall accommodate viewing of any recordings in a timely manner, including providing: 1. Appropriate playing or viewing equipment; 2. Privacy during viewing; and 3. Viewing times convenient to the resident or legal representative for quality assurance purposes.~~ If unauthorized viewing is discovered, the nursing facility shall report any such violation to the Office of Long-Term Care Ombudsman and to the OLC.

H. No nursing facility shall be held liable for any breach of data or privacy related to the presence of the electronic monitoring device.

I. A nursing facility shall require ~~its~~ facility staff to immediately report any incidents regarding safety or quality of care discovered or reported to staff as a result of viewing a recording ~~immediately from an electronic monitoring device~~ to the administrator of the nursing facility and to the OLC. Nursing facilities shall instruct the resident or legal representative of this reporting requirement and shall provide the resident or the resident's legal representative with the OLC's complaint hotline telephone number.

J. A nursing facility shall have no obligation to seek access to a recording ~~in its possession for which the nursing facility has not assumed custodial ownership~~ or to have knowledge of a recording's content, unless (i) the nursing facility is aware of a recorded incident of suspected abuse, or neglect, or an accident, or injury, or the resident, based upon a report received by the facility of such incident, accident, or injury or (ii) the resident, the resident's legal representative, or a government agency seeks to use a recording. ~~Nursing facilities shall immediately report suspected abuse and neglect discovered as a result of using monitoring devices, as required by law.~~

K. A. Unless a nursing facility ~~may require the resident or legal representative to be responsible for all aspects of the operation of the~~ chooses to assume ownership of any recordings from an monitoring equipment device, the resident or resident's legal representative shall be responsible for all aspects of the operation of the electronic monitoring device, including the removal and replacement of recordings; adherence to local, state, and federal privacy laws; and for firewall protections to prevent images that would violate obscenity laws from being inadvertently shown on the Internet.

L. A nursing facility shall prohibit assigned staff from refusing to enter a resident's room solely because of electronic monitoring.

~~M. Any electronic monitoring equipment shall be installed in a manner that is safe for residents, employees, or visitors who may be moving about the resident's room.~~

~~N. M.~~ A nursing facility shall make reasonable physical ~~accommodation~~ accommodations for electronic monitoring equipment devices, including:

1. Providing a reasonably secure place to mount the device; and
2. Providing reasonable access to power sources ~~for if already in proximity to~~ the device.

~~O. N.~~ A nursing facility ~~may~~ shall require a resident or resident's legal representative to pay for all costs, other than the cost of electricity, associated with installing the purchase and installation of the electronic monitoring equipment. ~~Such costs shall be reasonable and may include equipment, recording media and installation device.~~ In addition, a nursing facility offering facility-managed electronic monitoring may charge a one-time fee not to exceed \$150 when the electronic monitoring device is installed along with a security deposit not to exceed \$250. A nursing facility may charge a monthly fee not to exceed \$10 to cover costs associated with the electronic monitoring device. Such costs may include equipment, secured and password-protected wireless Internet and server capabilities, compliance with life safety and building and electrical codes, maintenance or removal of the equipment, posting and removal of any public notices, or structural repairs to the building resulting from the removal of the equipment. Nursing facilities shall give 45 days' days of notice of an increase in monthly monitoring fees.

~~P. Any equipment installed for the purpose of monitoring a resident's room shall be fixed and unable to rotate.~~

~~Q. The informed consent of all residents or residents' legal representatives assigned to the monitored room shall be obtained prior to any electronic monitoring equipment being installed.~~

R. A copy of any signed consent form shall be kept in the resident's medical record as well as on file with the nursing facility's designated electronic monitoring coordinator.

~~S. Any O.~~ The resident of a room with an electronic monitoring device or the resident's legal representative of a resident of a monitored room may verbally or in writing condition consent for the installation or use of the electronic monitoring devices device. Such The conditions on consent may include pointing the camera away or limiting or prohibiting the use of (i) the ability of the resident, a roommate, or staff at the request of the resident or any roommate, to turn off or disable the audio or video electronic monitoring device during certain devices periods of time and (ii) a prohibition on the ability of the nursing facility to, pursuant to subsection F of this section, choose to assume custodial ownership of recordings from the electronic monitoring device after the

electronic monitoring device has been installed and is operational. If the resident or resident's legal representative or any roommate or roommate's legal representative places conditions are placed on consent, then electronic monitoring the nursing facility and staff shall ensure that the installation, use, and operation of the electronic monitoring device and electronic monitoring or other activities be conducted according to those in connection with the electronic monitoring are conducted in compliance with the conditions.

~~T. P.~~ The nursing facility shall conspicuously post and maintain a notice at the entrance to the resident's room stating that an electronic monitoring device is in operation.

~~U. Nursing facilities~~ Q. A nursing facility shall notify all assigned staff for the resident and the long-term care division of the OLC that when electronic monitoring is in use in a resident's room pursuant to this section.

~~V. R.~~ A nursing facility shall prohibit staff from covert monitoring in violation of this chapter. Nursing facilities shall instruct the resident or legal representative of this prohibition and shall provide the resident or the resident's legal representative with the OLC's complaint hotline telephone number.

~~W. S.~~ If covert monitoring is discovered, the nursing facility shall report any such violation to the Office of Long-Term Care Ombudsman and OLC, and the nursing facility may require a resident or a resident's legal representative to meet all the requirements for authorized monitoring, if permitted by the nursing facility.

~~X. Each nursing facility, including those that choose not to offer electronic monitoring, shall adopt policies and procedures for electronic monitoring. These policies and procedures shall address all the elements of this section.~~

~~Y. A nursing facility shall prohibit staff from tampering with electronic monitoring in violation of this chapter.~~ T. Nursing facilities shall instruct the resident or the resident's legal representative of this prohibition and shall provide the resident or the resident's legal representative with the OLC's complaint hotline telephone number.

U. A nursing facility shall adopt policies and procedures for electronic monitoring consistent with this section.

V. A nursing facility shall adopt a policy prohibiting staff from willfully tampering with electronic monitoring devices in violation of this section. Adjusting or disabling an electronic monitoring device during the provision of patient care shall not constitute willful tampering if the adjusting or disabling is done in order to protect the dignity of a resident or at the direction of the resident or resident's legal representative.

W. If the placement or position of the electronic monitoring device creates risk to a nursing facility employee, resident, or roommate or if the resident or resident's legal representative or family member violates the nursing facility's policies and

procedures for electronic monitoring, the equipment may be disabled and removed and the nursing facility shall notify the resident, resident's legal representative, or family member responsible for the camera of the removal.

12VAC5-371-300. Pharmaceutical services.

A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products in compliance with 18VAC110-20. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.

B. Each nursing facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration, and disposal of drugs.

C. Each nursing facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the nursing facility.

D. The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the nursing facility for a sufficient number of hours to carry out the function of the agreement.

E. Excluding cannabidiol oil and THC-A oil, no drug or medication shall be administered to any resident without a valid verbal order or a written, dated and signed order from a physician, dentist, podiatrist, nurse practitioner, or physician assistant, licensed in Virginia.

F. Nursing facility employees who are authorized to possess, distribute, or administer medications to residents may store, dispense, or administer cannabidiol oil or THC-A oil to a resident who has:

1. Been issued a valid written certification for the use of cannabidiol oil or THC-A oil in accordance with ~~subsection B of § 54.1-3408.3 B~~ of the Code of Virginia; and
2. Registered with the Board of Pharmacy.

G. Advanced medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 of Title 54.1 of the Code of Virginia may administer drugs that would be administered by a registered medication aide pursuant to § 54.1-3408 M of the Code of Virginia in an assisted living facility licensed by the Department of Social Services, in addition to drugs determined permissible by the Board of Nursing, in a nursing home licensed by the Virginia Department of Health. Advanced medication aides shall administer drugs pursuant to this section:

1. In accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration;
2. In accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping;
3. In accordance with the licensed nursing home's policies and procedures; and

Regulations

4. In accordance with such other regulations promulgated by the Board of Nursing governing the practice of medication aides.

H. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist, or physician.

H. I. Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped, according to the written policies of the nursing facility, and the attending physician shall be notified.

I. J. Each resident's medication regimen shall be reviewed by a pharmacist licensed by the ~~Virginia~~ Board of Pharmacy. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.

J. K. Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.

K. L. Prescription and nonprescription drugs and medications may be brought into the nursing facility by a resident's family, friend, or other person provided:

1. The individual delivering the drugs and medications ~~assures~~ ensures timely delivery, in accordance with the nursing facility's written policies, so that the resident's prescribed treatment plan is not disrupted;
2. Each drug or medication is in an individual container; and
3. Delivery is not allowed directly to an individual resident.

In addition, prescription medications shall be obtained and labeled as required by law.

V.A.R. Doc. No. R26-8299; Filed September 19, 2025, 1:05 p.m.

Final Regulation

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

Title of Regulation: **12VAC5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12VAC5-410-10, 12VAC5-410-280, 12VAC5-410-441, 12VAC5-410-444; adding 12VAC5-410-225, 12VAC5-410-1176).**

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Val Hornsby, Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Henrico, VA

23233, telephone (804) 875-1089, or email val.hornsby@vdh.virginia.gov.

Summary:

The amendments implement the provisions of Chapters 238, 423 and 428, 457 and 472, 488, 544 and 557, and 589 of the 2025 Acts of Assembly. Amendments include (i) requiring hospitals with an emergency department (ED), when conducting a urine drug screening to assist in diagnosing patient condition, to include fentanyl testing in such drug screening; (ii) requiring all hospitals with an ED or labor and delivery and all freestanding EDs to implement standardized protocols for identifying and responding to obstetric emergencies based on the protocols developed by the Virginia Neonatal Perinatal Collaborative; (iii) requiring hospitals to report and post threats or acts of violence against health care providers on hospital premises; (iv) allowing a certified nurse midwife, licensed certified midwife, or pediatric nurse practitioner to be on the 24-hour on-call duty roster for nursery care if a physician is not available and allow a physician to provide consultation to the listed providers via telehealth or audio-only if a physician cannot arrive on site in 30 minutes; (v) amending the definition of "organized medical staff" to clarify that an organized medical staff may include other practitioners, including independent practice midwives, in addition to physicians and dentists; and (vi) requiring health care facilities that provide services related to labor and childbirth to develop policies regarding childbirth, the postpartum process, and doulas.

12VAC5-410-10. Definitions.

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

"Board" means the State Board of Health.

"Chief executive officer" means a job descriptive term used to identify the individual appointed by the governing body to act on its behalf in the overall management of the hospital. Job titles may include administrator, superintendent, director, executive director, president, vice-president, and executive vice-president.

"Commissioner" means the State Health Commissioner.

"Consultant" means one who provides services or advice upon request.

"Department" means an organized section of the hospital.

"Designated support person" means a person who is knowledgeable about the needs of a person with a disability and who is designated, orally or in writing, by the individual with a disability, the individual's guardian, or the individual's care provider to provide support and assistance, including physical assistance, emotional support, assistance with

communication or decision-making, or any other assistance necessary as a result of the person's disability, to the person with a disability at any time during which health care services are provided.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Facilities" means buildings, equipment, and supplies necessary for implementation of services by personnel.

"Full-time" means a 37-1/2 to 40 hour work week.

"General hospital" means institutions as defined by § 32.1-123 of the Code of Virginia with an organized medical staff; with permanent facilities that include inpatient beds; and with medical services, including physician services, dentist services, and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical and dental conditions that may require various types of care, such as medical, surgical, and maternity.

"Home health care department/service/program" means a formally structured organizational unit of the hospital that is designed to provide health services to patients in their place of residence and that meets Part II (12VAC5-381-150 et seq.) of the Regulations for the Licensure of Home Care Organizations.

"Intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including combinations known as digital assistants or virtual assistants.

"Medical" means pertaining to or dealing with the healing art and the science of medicine.

"Nursing care unit" means an organized jurisdiction of nursing service in which nursing services are provided on a continuous basis.

"Nursing home" means an institution or any identifiable component of any institution as defined by § 32.1-123 of the Code of Virginia with permanent facilities that include inpatient beds and whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of patients who may require various types of long term care, such as skilled care and intermediate care.

"Nursing services" means patient care services pertaining to the curative, palliative, restorative, or preventive aspects of nursing that are prepared or supervised by a registered nurse.

"Office of Licensure and Certification" or "OLC" means the Office of Licensure and Certification of the Virginia Department of Health.

"Organized" means administratively and functionally structured.

"Organized medical staff" means a formal organization of physicians and dentists with the delegated responsibility and authority to maintain proper standards of medical care and to plan for continued betterment of that care. Organized medical staff may include other practitioners, including independent practice midwives.

"Outpatient hospital" means institutions as defined by § 32.1-123 of the Code of Virginia that primarily provide facilities for the performance of surgical procedures on outpatients. Such patients may require treatment in a medical environment exceeding the normal capability found in a physician's office, but do not require inpatient hospitalization.

"Ownership/person" means any individual, partnership, association, trust, corporation, municipality, county, governmental agency, or any other legal or commercial entity that owns or controls the physical facilities or manages or operates a hospital.

"Rural hospital" means any general hospital in a county classified by the federal Office of Management and Budget (OMB) as rural, any hospital designated as a critical access hospital, any general hospital that is eligible to receive funds under the federal Small Rural Hospital Improvement Grant Program, or any general hospital that notifies the commissioner of its desire to retain its rural status when that hospital is in a county reclassified by the OMB as a metropolitan statistical area as of June 6, 2003.

"Service" means a functional division of the hospital and is also used to indicate the delivery of care.

"Smoke evacuation system" means the same as that term is defined in § 32.1-127 B 32 of the Code of Virginia.

"Special care unit" means an appropriately equipped area of the hospital where there is a concentration of physicians, nurses, and others who have special skills and experience to provide optimal medical care for patients assigned to the unit.

"Special hospital" means institutions, as defined by § 32.1-123 of the Code of Virginia, that provide care for a specialized group of patients or limit admissions to provide diagnosis and treatment for patients who have specific conditions (e.g., tuberculosis, orthopedic, pediatric, maternity).

"Staff privileges" means authority to render medical care in the granting institution within well-defined limits based on the individual's professional license and the individual's experience, competence, ability, and judgment.

"Unit" means a functional division or facility of the hospital.

"Urine drug screening" means a chemical analysis intended to test patients for the presence of multiple drugs, including cocaine, opioids, and phencyclidine.

Regulations

12VAC5-410-225. Hospitals; reports of threats or acts of violence against health care providers.

A. For the purposes of this section:

"Employee of the hospital" or "employee" means an employee of the hospital or any health care provider credentialed by the hospital or engaged by the hospital to perform health care services on the premises of the hospital.

"Workplace violence" means any act of violence or threat of violence, without regard to the intent of the perpetrator, that occurs against an employee of the hospital while on the premises of such hospital and engaged in the performance of the employee's duties. "Workplace violence" includes (i) the threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether physical injury is sustained, and (ii) any incident involving the threat of using dangerous weapons or using common objects as weapons or to cause physical harm, regardless of whether physical injury is sustained.

B. A hospital shall:

1. Establish a workplace violence incident reporting system, through which the hospital shall document, track, and analyze any incident of workplace violence reported.
2. Use the results of the analysis to make improvements in preventing workplace violence, including improvements achieved through continuing education in targeted areas including (i) de-escalation training, (ii) risk identification, and (iii) violence prevention planning.
3. Clearly communicate the reporting system to all employees, including to any new employees at the employee orientation. The reporting system shall include guidelines on when and how to report incidents of workplace violence to the employer, security agencies, and appropriate law-enforcement authorities;
4. Record all reported incidents of workplace violence as voluntarily reported by an employee; and
5. Adopt a policy that prohibits any person from discriminating or retaliating against any employee of the hospital for reporting to, or seeking assistance or intervention from, the employer, security agencies, law-enforcement authorities, local emergency services organizations, government agencies, or others participating in any incident investigation. The policy shall comply with the provisions of § 40.1-27.3 of the Code of Virginia.

C. A hospital shall maintain the record of reported incidents of workplace violence made pursuant to subsection B of this section for at least two years and shall include in the record, at a minimum:

1. The date and time of the incident;

2. A description of the incident, including the job title of the affected employee;

3. Whether the perpetrator was a patient, visitor, employee, or other person;

4. A description of where the incident occurred;

5. Information relating the type of incident, including whether the incident involved (i) a physical attack without a weapon; (ii) an attack with a weapon or object; (iii) a threat of physical force or use of a weapon or other object with the intent to cause bodily harm; (iv) sexual assault or the threat of sexual assault; or (v) anything else not listed in subdivisions (i) through (iv);

6. The response to and any consequences of the incident, including (i) whether security or law enforcement was contacted and, if so, their response and (ii) whether the incident resulted in any change to hospital policy; and

7. Information about the individual who completed the report, including the individual's name, job title, and the date of completion.

D. A hospital shall:

1. Report the data collected and reported pursuant to subsection C of this section to the chief medical officer and the chief nursing officer of the hospital on, at a minimum, a quarterly basis; and
2. Send a report to the department on an annual basis that includes, at a minimum, the number of incidents of workplace violence voluntarily reported by an employee pursuant to subsection B of this section. A report made to the department pursuant to this subsection shall be aggregated to remove any personally identifiable information.

12VAC5-410-280. Emergency service.

A. Hospitals with an emergency department or service shall have 24-hour staff coverage and shall have at least one physician who is primarily responsible for the emergency department on duty and physically present at all times. Hospitals without emergency service shall have written policies governing the handling of emergencies.

B. No fewer than one registered nurse shall be assigned to the emergency service on each shift. Such assignment need not be exclusive of other duties, but must have priority over all other assignments.

C. Those hospitals that provide ambulance services shall comply with Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia and 12VAC5-31.

D. The hospital shall provide equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs, including radiology and laboratory services and facilities for handling and administering blood and blood

products. Emergency drugs and equipment shall remain accessible in the emergency department at all times.

E. A current roster of medical staff members on emergency call, including alternates and medical specialists or consultants, shall be posted in the emergency department.

F. Hospitals shall make special training available, as required, for emergency department personnel.

G. Toxicology reference material and poison antidote information shall be available along with telephone numbers of the nearest poison control centers.

H. Each emergency department shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to gain assistance or report crimes. This notice shall be in a place readily visible and accessible to the public, such as the patient admitting area or public or patient restrooms. The notice shall meet the requirements of § 40.1-11.3 C of the Code of Virginia.

I. Every hospital with an emergency department shall establish a security plan for each emergency department that:

1. Is developed using standards established in the Healthcare Security Industry Guidelines, 13th Edition (International Association for Healthcare Security and Safety);

2. Is based on:

- a. The results of a security risk assessment of each emergency department location of the hospital; and
- b. Risks for the emergency department identified in consultation with the emergency department medical director and nurse director, including:

- (1) Trauma level designation;
- (2) Overall patient volume;
- (3) Volume of psychiatric and forensic patients;
- (4) Incidents of violence against staff;
- (5) Level of injuries sustained from such violence; and
- (6) Prevalence of crime in the community;

3. Includes the presence of one or more off-duty law-enforcement officers or trained security personnel in the emergency department at all times, except as provided in subsection L of this section, and as indicated to be necessary and appropriate by the security risk assessment; and

4. Outlines training requirements for security personnel in:

- a. The potential use of and response to weapons;
- b. Defensive tactics;
- c. De-escalation techniques;
- d. Appropriate physical restraint and seclusion techniques;
- e. Crisis intervention;
- f. Trauma-informed approaches; and

- g. Safely addressing situations involving patients, family members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis.

J. The hospital may:

1. Accept from ~~its~~ the hospital's security personnel the satisfactory completion of the Department of Criminal Justice Services minimum training standards for auxiliary police officers as required by § 15.2-1731 of the Code of Virginia in lieu of the training prescribed by subdivision I 4 of this section; and

2. Request to use industry standards other than those specified in subdivision I 1 of this section by submitting a written request for alternative industry standards to the OLC that:

- a. Specifies the title, edition if applicable, and author of the alternative industry standards; and
- b. Provides an explanation of how the alternative industry standards are substantially similar to those specified in subdivision I 1 of this section.

K. Every hospital with an emergency department shall update ~~its~~ the hospital's security plan, including its security risk assessment, for each emergency department location of the hospital as often as necessary but not to exceed two years.

L. The commissioner shall provide a waiver from the requirement that at least one off-duty law-enforcement officer or trained security personnel be present at all times in the emergency department if the hospital demonstrates that a different level of security is necessary and appropriate for any of ~~its~~ the hospital's emergency departments based upon findings in the security risk assessment.

1. A hospital shall submit a written request for a waiver pursuant to this subsection and shall:

- a. Specify the location of the emergency department for which the waiver is requested;
- b. Provide a dated copy of the security risk assessment performed for the specified emergency department that has been reviewed and approved by the governing body or ~~its~~ the governing body's designee; and
- c. Indicate the requested duration of the waiver.

2. The commissioner shall specify in any waiver granted pursuant to this subsection:

- a. The location of the emergency department for which the waiver is granted;
- b. The level of security to be provided at the specified emergency department location;
- c. The effective date of the waiver; and
- d. The duration of the waiver, which may not exceed two years from the date of issuance.

Regulations

3. A hospital granted a waiver pursuant to this subsection shall:

- a. Notify the commissioner in writing no less than 30 calendar days after its security risk assessment changes if such change impacts when or how many off-duty law-enforcement officers or trained security personnel should be present at the emergency department for which a waiver was granted;
- b. Provide a dated copy of the changed security risk assessment performed for the specified emergency department that has been reviewed and approved by the governing body or ~~its~~ the governing body's designee; and
- c. Indicate whether the hospital is:
 - (1) Requesting a modification to its existing waiver; or
 - (2) Surrendering its existing waiver.

4. The commissioner may request additional information from the hospital in evaluating the requested waiver.

5. The commissioner may modify or rescind a waiver granted pursuant to this subsection if:

- a. Additional information becomes known that alters the basis for the original decision, including if the security risk assessment changes regarding how many off-duty law-enforcement officers or trained security personnel should be present at the emergency department for which a waiver was granted; or
- b. Results of the waiver jeopardize the health or safety of patients, employees, contractors, or the public.

6. Pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia), the Virginia Department of Health:

- a. May not release to the public information that a hospital discloses pursuant to this subsection, the waiver request, or the response to the waiver to the extent those records are exempt from disclosure; and
- b. Shall notify the Secretary of Public Safety and Homeland Security of any request for records specified in subdivision L 6 a of this section, the person making such request, and the Virginia Department of Health's response to the request.

M. Each hospital with an emergency department shall establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for:

1. Appropriate screening and assessment of individuals experiencing substance use-related emergencies to identify medical interventions necessary for the treatment of the individual in the emergency department; and
2. Recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate. For patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, recommendations may include:

- a. The dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to § 54.1-3408 X of the Code of Virginia at discharge; or
- b. Issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including an outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order.

The protocol may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses.

N. Beginning January 1, 2026, every hospital with an emergency department, if conducting a urine drug screening to assist in diagnosing a patient's condition, shall include testing for fentanyl in the urine drug screening.

12VAC5-410-441. Obstetric service requirements; medical direction; physician consultation and coverage; nurse staffing and coverage; policies and procedures.

A. The governing body shall appoint a physician as medical director of the organized obstetric service who meets the qualifications specified in the medical staff bylaws.

1. If the medical director is not a board certified obstetrician or board eligible in obstetrics, the hospital shall have a written agreement with one or more board-certified or board-eligible obstetricians to provide consultation on a 24-hour basis. Consultation may be by telephone.
2. The duties and responsibilities of the medical director of obstetric services shall include:
 - a. The general supervision of the quality of care provided patients admitted to the service;
 - b. The establishment of criteria for admission to the service;
 - c. The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;
 - d. The development of recommendations to the medical staff on standards of professional practice and staff privileges;
 - e. The identification of clinical conditions and medical or surgical procedures that require physician consultation; and
 - f. Arranging conferences, at least quarterly, to review obstetrical surgical procedures, complications, and infant

and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed jointly between the obstetric and newborn service staffs.

B. A physician with obstetrical privileges capable of arriving on-site within 30 minutes of notification shall be on a 24-hour on-call duty roster.

C. A physician with obstetrical privileges shall be accessible for patient treatment within 10 minutes during the administration of an oxytocic agent to an antepartum patient.

D. A physician or a certified nurse-midwife, under the supervision of a physician with obstetrical privileges, shall be in attendance for each delivery. Physician supervision of the nurse-midwife shall be in compliance with the regulations of the Boards of Nursing and Medicine.

E. A physician shall be in attendance during all high-risk deliveries. High-risk deliveries shall be defined by the obstetric service medical staff.

F. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

G. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical, and surgical staff privileges, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

H. A copy of the 24-hour on-call duty schedule, including the list of on-call consulting physicians, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

I. An occupied unit of the obstetrics service shall be supervised by a registered nurse 24 hours a day.

J. If the postpartum unit is organized as a separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight obstetric patients. Staffing shall include at least one registered nurse for the unit for each duty shift.

K. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall be staffed at all times with no less than two nursing personnel each shift. At least one of the two nursing personnel on each shift shall be a registered nurse.

L. For the purposes of this section:

1. "Birth" includes both vaginal birth and cesarean section.

2. "Doula" means a person who provides physical, emotional, and informational support to a pregnant person before, during, and after pregnancy.

3. "Postpartum process" means the biologic process that happens to both the newborn and birthing person after delivery due to endogenous hormone systems.

M. A health care facility that provides services related to labor and childbirth shall develop policies that:

1. Allow every birthing person to have a companion or doula with the person during birth in addition to a partner or spouse when a partner or spouse is permitted to be present;

2. At the discretion of the treating physician, allow every birthing person to have a companion or doula with the person during birth when a partner or spouse is not permitted to be present;

3. Prioritize newborns bonding with the newborn's families in order to facilitate the postpartum process;

4. Will not exclude from care a person giving birth, or interrupt the process of birth without the informed consent of the birthing person, unless at the discretion of the treating physician;

5. Detail the facility's process related to receiving a pregnant person's patient information from any provider regulated under Title 54.1 of the Code of Virginia who has provided care for the pregnant person;

6. Establish processes to transfer and receive pregnant persons across levels of care of licensed facilities within the facility's capacity and capability; and

7. Establish a process to receive individuals who are pregnant, giving birth, or in the postpartum process from locations other than licensed facilities, including a process to receive verbal and written information from individuals with relevant information, including family members, doulas, or a health care provider regulated under Title 54.1 of the Code of Virginia.

~~N.~~ N. A registered nurse shall be in attendance at all deliveries. The nurse shall be available on-site to monitor the mother's general condition and that of the fetus during labor, at least one hour after delivery, and longer if complications occur.

~~M.~~ O. Nurse staffing of the labor and delivery unit shall be scheduled to ensure that the total number of nursing personnel available on each shift is equal to one half of the average number of deliveries in the hospital during a 24-hour period.

~~N.~~ P. At least one of the personnel assigned to each shift on the obstetrics unit shall be a registered nurse. At no time when the unit is occupied shall the nursing staff on any shift be less than two staff members.

~~Q.~~ Q. Patients placed under analgesia or anesthesia during labor or delivery shall be under continuous observation by a registered nurse or a licensed practical nurse for at least one hour after delivery.

Regulations

~~P. R.~~ To ensure adequate nursing staff for labor, delivery, and postpartum units during busy or crisis periods, duty schedules shall be developed in accordance with the following ~~nurse/patient~~ nurse to patient ratios:

1. 1:1 to 2 Antepartum testing
2. 1:2 Laboring patients
3. 1:1 Patients in second stage of labor
4. 1:1 Ill patients with complications
5. 1:2 Oxytocin induction or augmentation of labor
6. 1:2 Coverage of epidural anesthesia
7. 1:1 Circulation for cesarean delivery
8. 1:6 to 8 Antepartum/postpartum patients without complications
9. 1:2 Postoperative recovery
10. 1:3 Patients with complications, but in stable condition
11. 1:4 Mother-newborn care

~~Q. S.~~ Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of obstetric patients shall be under the supervision of a registered nurse.

~~R. T.~~ At least one registered nurse trained in obstetric and neonatal care shall be assigned to the care of mothers and infants at all times.

~~S. U.~~ At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the delivery suite.

~~T. V.~~ All nursing personnel assigned to the obstetric service shall have orientation to the obstetrical unit.

~~U. W.~~ The governing body shall adopt written policies and procedures for the management of obstetric patients approved by the medical and nursing staff assigned to the service.

1. The policies and procedures shall include the following:
 - a. Criteria for the identification and referral of high-risk obstetric patients;
 - b. The types of birthing alternatives, if offered, by the hospital;
 - c. The monitoring of patients during antepartum, labor, delivery, recovery, and postpartum periods with or without the use of electronic equipment;
 - d. The use of equipment and personnel required for high-risk deliveries, including multiple births;
 - e. The presence of family members or chosen companions during labor, delivery, recovery, and postpartum periods;
 - f. The reporting, to the Virginia Department of Health, of all congenital defects;

g. The care of patients during labor and delivery to include the administration of Rh O(D) immunoglobulin to Rh negative mothers who have met eligibility criteria. Administration of RH O(D) immunoglobulin shall be documented in the patient's medical record;

h. The provision of family planning information, to each obstetric patient at time of discharge, in accordance with § 32.1-134 of the Code of Virginia;

i. The use of specially trained paramedical and nursing personnel by the obstetrics and newborn service units;

j. A protocol for hospital personnel to use to assist them in obtaining public health, nutrition, genetic, and social services for patients who need those services;

k. The use of anesthesia with obstetric patients;

l. The use of radiological and electronic services, including safety precautions, for obstetric patients;

m. The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in aseptic containers, dated, stored under refrigeration, and consumed or disposed of within 24 to 48 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use;

n. Staff capability to perform cesarean sections within 30 minutes of notice;

o. Emergency resuscitation procedures for mothers and infants;

p. The treatment of volume shock in mothers;

q. Training of hospital staff in discharge planning for identified substance abusing, postpartum women and their infants;

r. Written discharge planning for identified substance abusing, postpartum women and their infants. The discharge plans shall include appropriate referral sources available in the community or locality for mother and infants such as:

(1) Substance abuse treatment services; and

(2) Comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 USC § 1471 et seq.

~~(3)~~ The discharge planning process shall be coordinated by a health care professional and shall include, to the extent possible: ~~(a) The (i) the father of the infant; and (b) Any (ii) any~~ family members who may participate in the follow-up care of the mother or infant. The discharge plan shall be discussed with the mother and documented in the medical record; and

s. The provision of information pursuant to § 32.1-134.01 of the Code of Virginia about the incidence of postpartum blues, perinatal depression, and perinatal anxiety; information to increase awareness of shaken baby

syndrome and the dangers of shaking infants; and information about safe sleep environments for infants that is consistent with current information from the American Academy of Pediatrics.

2. The obstetric service shall adopt written policies and procedures for the use of the labor, delivery, and recovery rooms (LDR)/Labor, delivery, recovery and postpartum rooms (LDRP) that include, ~~but are not limited to~~ the following:

- a. The philosophy, goals, and objectives for the use of the LDR/LDRP rooms;
- b. Criteria for patient eligibility to use the LDR/LDRP rooms;
- c. Identification of high-risk conditions ~~which that~~ disqualify patients from use of the LDR/LDRP rooms;
- d. Patient care in LDR/LDRP rooms, including the following:
 - (1) Defining vital signs, the intervals at which they shall be taken, and requirements for documentation; and
 - (2) Observing, monitoring, and assessing the patient by a registered nurse, certified nurse midwife, or physician;
- e. The types of analgesia and anesthesia to be used in LDR/LDRP rooms;
- f. Specifications of conditions of labor or delivery requiring transfer of the patient from LDR/LDRP rooms to the delivery room;
- g. Specification of conditions requiring the transfer of the mother to the postpartum unit or the newborn to the nursery;
- h. Criteria for early or routine discharge of the mother and newborn;
- i. The completion of medical records;
- j. The presence of family members or chosen companions in the delivery room or operating room in the event that the patient is transferred to the delivery room or operating room;
- k. The number of visitors allowed in the LDR/LDRP room, and their relationship to the mother; and
- l. Infection control, including gowning and attire to be worn by persons in the LDR/LDRP room, upon leaving it, and upon returning.

12VAC5-410-444. Newborn service medical direction; physician consultation and coverage; nursing direction, nurse staffing and coverage; policies and procedures.

A. The governing body shall appoint a physician as medical director of the organized newborn service who meets the qualifications specified in the medical staff bylaws. In addition, the medical director must meet the qualifications specified for the medical direction of the highest level of newborn service provided by the hospital.

1. If a hospital offers only general level newborn services, the medical director shall be a physician qualified to provide normal newborn care, including the ability to immediately resuscitate and stabilize a sick newborn for transfer to a higher level of service.

2. If a hospital offers intermediate level newborn services, the medical director shall be a board-certified or board-eligible pediatrician with training and experience in the care of preterm neonates, including stabilization and ventilation management.

3. If a hospital offers specialty level newborn services, the medical director shall be a board-certified or board-eligible neonatologist.

4. If a hospital offers subspecialty level newborn services, the medical director shall be a board-certified or board-eligible neonatologist.

B. The duties and responsibilities of the medical directors of all levels of newborn service shall include, ~~but not be limited to~~ the:

1. General supervision of the quality of care provided patients admitted to the service;
2. Establishment of criteria for admission to the service;
3. Adherence of the service to standards of professional practices, policies and procedures, the medical protocol, and the hospital's collaboration agreements adopted by the medical staff and governing body applicable to the service;
4. Development of recommendations to the medical staff on standards of professional practice and staff privileges applicable to the service;
5. Identification of clinical conditions and medical and surgical procedures that require physician consultation;
6. Conducting conferences, at least quarterly, to review routine and emergency surgical procedures, complications, and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed with the obstetric service staff; and
7. Active participation in the service's quality assurance program.

C. The hospital shall provide the following physician consultation and coverage in the general level newborn nursery service and all higher level nursery services unless unique requirements are specifically imposed for the higher level nursery services:

1. A physician with pediatric privileges capable of arriving on-site within 30 minutes of notification shall be on the 24-hour on-call duty roster. If a physician is not available, a certified nurse midwife, licensed certified midwife, or pediatric nurse practitioner may be on the 24-hour on-call duty roster for nursery care. In order to be on the 24-hour on-

Regulations

call duty roster, such health care providers shall have pediatric privileges and a neonatal resuscitation certification from the American Academy of Pediatrics, including endotracheal intubation training. Such health care providers shall be subject to the same requirement that applies to physicians regarding the capability of arriving on-site within 30 minutes of notification. A physician may provide consultation via telehealth, including audio-only consultation, when a certified nurse midwife, licensed certified midwife, or pediatric nurse practitioner is providing coverage for the 24-hour on-call duty roster and a physician is incapable of arriving on-site within 30 minutes of notification;

2. A physician or nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

3. A current roster of physicians, with a delineation of their newborn, pediatric, medical, and surgical privileges shall be posted at each nurses' station in the newborn service unit.

4. A copy of the 24-hour on-call duty schedule, including a list of on-call consulting physicians, shall be posted at each nurses' station in the newborn service unit.

5. If the medical director is not a board-certified or board-eligible pediatrician, the hospital shall have a written agreement with one or more board-certified or board-eligible pediatricians to be available to provide consultation on a 24-hour basis. Consultation may be by telephone.

6. If a hospital does not have a neonatologist on staff available on a 24-hour basis, it shall have a written agreement with another hospital to provide consultation, at least by telephone, on a 24-hour basis, by a board-certified or board-eligible neonatologist. The consultant shall be available to advise on the development of a protocol for the care and transport of sick newborns.

D. The physician consultation and coverage for the intermediate level newborn nursery service shall be the same as the general level newborn service with the following exceptions:

1. Subdivision C 1 of this section shall not apply.

2. Physician coverage shall be provided on a 24-hour on-call basis by a board-certified or board-eligible pediatrician or pediatricians capable of arriving on-site within 30 minutes of notification.

E. The physician consultation and coverage for the specialty level and the subspecialty level newborn services shall be the same as for the lower level newborn services with the following exceptions:

1. Subdivision C 1 of this section shall not apply.

2. In-house physician consultation and coverage shall be provided 24 hours a day by a:

- a. Board-certified or board-eligible neonatologist;
- b. Board-certified or board-eligible pediatrician;
- c. Second year or higher level pediatric resident; or
- d. Neonatal nurse practitioner.

3. Whenever in-house coverage is provided as stated in subdivision 2 b, c, or d of this subsection, a board-certified or board-eligible neonatologist shall be on-call and available to be on-site within 20 minutes of request.

F. The nursing direction, staff, and coverage required for the general level newborn service shall be as follows:

1. The neonatal nursing program shall be under the direction of a registered nurse.

2. The nursing director's responsibilities shall include, ~~but not be limited to:~~

- a. Directing neonatal nursing services;
- b. Guiding the development and implementation of neonatal nursing policies and procedures;
- c. Collaborating with the medical staff; and
- d. Consulting with referral hospitals with which a hospital has transfer agreements applicable to the service or services.

3. Each occupied unit of the newborn service shall be under the direct supervision of a registered nurse 24 hours a day. The registered nurse shall have documented competence in neonatal nursing appropriate to the level of service provided.

4. If a general level newborn nursery is organized as a separate nursing unit, staffing shall be based on a formula of a minimum of one nursing personnel to every eight newborns. Staffing shall include at least one registered nurse for the unit for each duty shift to provide direct supervision for nursing care.

5. If the postpartum and general level newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall always be staffed with no less than two nursing personnel assigned to each shift. One of the two nursing personnel shall be a registered nurse to provide direct supervision of nursing care.

6. When infants are present in the nursery, at least one nursing personnel trained in the care of newborn infants, with duties restricted to the care of the infants, shall be assigned to the nursery at all times. This nursing personnel is in addition to the registered nurse who is required to provide supervision.

7. To ensure adequate nursing staff for the nursery for normal newborns, duty schedules shall be developed and actual shift staffing shall occur according to the following minimum nurse to patient ratios:

- a. 1:4 Recently born infants and those needing close observation.
- b. 1:8 Newborns needing only routine care.
- c. 1:4 Mother-newborn routine care.

8. Student nurses, licensed practical nurses, and nursing aides who assist in the nursing care of newborn infants shall be under the direct supervision of a registered nurse.

9. At least one nurse on each shift who is skilled in neonatal cardiopulmonary resuscitation must be immediately available to the nursery.

10. All nursing personnel assigned to the newborn service shall have orientation to the nursery, including orientation to patient care appropriate for the service level provided.

G. The nursing direction, staff and coverage required of the intermediate level newborn service shall be the same as required of the general level newborn service with the following exceptions:

- 1. To ensure adequate nursing staff for the nursery, duty schedules shall be developed and actual shift staffing shall occur according to a ratio of at least one nurse to four neonates.
- 2. All registered nurses assigned to the newborn service shall be trained in neonatal cardiopulmonary resuscitation (CPR).

H. The nursing direction, staff, and coverage for the specialty level newborn service shall be the same as the lower level newborn service levels with the following exceptions:

- 1. The newborn nursery service shall have a nurse manager. The nurse manager shall be a registered nurse with advanced training and experience in the nursing management of high-risk neonates and their families. The responsibilities of the nurse manager shall include, ~~but not be limited to:~~
 - a. Daily management of the nursery;
 - b. Supervision and evaluation of nursing personnel assigned to the nursery;
 - c. Assuring nursing coverage 24 hours a day; and
 - d. Implementing nursing policies and procedures at the service level.
- 2. All registered nurses shall have advanced training and experience in the management of neonatal patients, including specialized care technology and ventilator care for neonates. Only registered nurses with this advanced training and experience shall be assigned to care for neonates on ventilators.
- 3. To ensure adequate nursing staff for the nursery, duty schedules shall be developed and actual shift staffing shall occur according to a ratio of at least one nurse to three patients for neonates requiring specialty level care. For those neonates who have been assessed as no longer needing

specialty level care, nurse to patient ratios shall be according to the neonate's appropriate level of service.

I. The nursing direction, staff and coverage for the subspecialty level newborn service shall be the same as all lower levels of newborn services with the following exceptions:

- 1. A neonatal clinical nurse specialist shall be assigned to the nursery, and duties and responsibilities shall include staff consultation, collaboration, and teaching.
- 2. All registered nurses shall have advanced training and experience, beyond what is required of nurses in the lower level nurseries, in the management of high-risk neonates, including the care of unstable neonates with multisystem problems.
- 3. To ensure adequate nursing staff for the nursery, duty schedules shall be developed and actual shift staffing shall occur according to the following minimum nurse to patient ratios for neonates requiring subspecialty level care:
 - a. 1:2 Neonates requiring subspecialty level care; and
 - b. 1:1 Neonates requiring multisystem support.

For those neonates who have been assessed as no longer needing subspecialty level care, nurse to patient ratios shall be according to the neonate's appropriate level of service.

4. All nursing patient care shall be provided by registered nurses assigned to the subspecialty level nursery.

J. The governing body shall adopt written policies and procedures approved by the medical and nursing staff of the service, for the medical care of newborns.

K. The policies and procedures for the general level nursery and all higher levels of newborn services shall include, ~~but not be limited to:~~

- 1. Medical criteria for the identification of high-risk neonatal patients.
- 2. Protocols for the management of all neonatal medical conditions that are routinely managed by the service as well as protocols for the stabilization and transfer of neonates that require a higher level of newborn service. These protocols shall be maintained in the nursery in addition to the telephone numbers of each nursery and the names of each referral newborn service medical director.
- 3. Written collaboration agreements with hospitals with higher levels of newborn services. A hospital may enter into more than one collaboration agreement. The collaboration agreements shall specifically identify those medical conditions that require consultation and may necessitate a neonatal transfer as well as the interim treatment required prior to transfer. Nothing in the regulation shall require a birth hospital to enter into a collaboration agreement with a referral hospital that disagrees with the medical, consultation

Regulations

and transfer protocols adopted by the birth hospital. All neonatal transfers shall conform with ~~Section §~~ 1867 of the Social Security Act, its amendments in force to date, and implementing regulations. At the time of any transfer, the medical treatment at the referral hospital shall outweigh the risks to the neonate from affecting the transfer. The collaboration agreements shall include, ~~but not be limited to:~~

- a. Criteria for neonatal transfer to the referral nursery;
 - b. Procedures for neonatal transport;
 - c. Back transfer criteria which provides for the return of the neonate to the referring hospital when medically appropriate;
 - d. Annual review by both parties of all cases of neonatal transfer;
 - e. Annual review by both parties of the collaboration agreements; and
 - f. Annual evaluation by both parties of the collaboration agreement and modification of the agreement, as necessary, as indicated by the evaluation results.
4. Establishment and maintenance of an ongoing, documented quality assurance program by the service that utilizes a multidisciplinary team of health practitioners and administrators for review and is integrated with the hospital's overall quality assurance program.
- a. The quality assurance program shall include:
 - (1) Problem identification;
 - (2) Action plans;
 - (3) Evaluation; and
 - (4) Follow-up.
 - b. The quality assurance program shall include an annual review of the following:
 - (1) Neonatal transfer cases;
 - (2) Management of in-house neonatal cases; and
 - (3) Staff in-house inservice programs.
 - c. Outcome statistics, including morbidity, mortality, and the appropriateness of neonatal transfers, shall be compiled in a standardized manner and reviewed quarterly by a multidisciplinary committee.
5. Immediate resuscitation and stabilization of the sick neonate in accordance with current cardiopulmonary resuscitation (CPR) standards of the American Heart Association and the American Academy of Pediatrics.
6. Care of newborns after delivery to include the following:
- a. Care of eyes, skin, and umbilical cord and the provision of a single parenteral dose of Vitamin K-1, water soluble, as a prophylaxis against hemorrhagic disorder;
 - b. Maintenance of the newborn's airway, respiration, and body temperature; and

c. Assessment of the newborn and recording of the one-minute and five-minute Apgar scores.

7. Performance of prophylaxis against ophthalmia neonatorum by the administration of a 1.0% solution of silver nitrate aqueous solution, erythromycin, or tetracycline ointment or solution. This process is to be performed within one hour of delivery with documentation entered in the newborn's medical record. The process may be performed in the nursery.
8. Clamping or tying of the umbilical cord and, when indicated, collecting a sample of cord blood.
9. Performance of Rh type and Coombs' test for every newborn born to a Rh negative mother and performing major blood grouping and Coombs' tests when indicated for every newborn born to an O blood group mother or a mother with a family history of blood incompatibility. If such qualitative tests are performed, the results shall be documented in the newborn's medical record.
10. Identification and treatment of hyperbilirubinemia and hypoglycemia.
11. Identification of each newborn, prior to leaving the delivery room, with two identification bands fastened on the newborn and one identification band fastened on the mother. The newborn's medical record shall accompany the infant from the delivery room.
12. Newborn transport, within the hospital, of all newborns who are either premature or compromised by using a heated bassinet equipped with oxygen, a transport incubator or other similar equipment.
13. Registered nurse or physician assessment of a newborn within one hour after delivery and documentation of the assessment in the newborn's medical record. Assessment in the delivery area is permitted if the hospital permits a newborn and its mother to remain together during the immediate post-delivery period.
14. Delineation of how infants are to be monitored during stays with their mothers and under what circumstances infants must be taken to the nursery immediately after delivery and not allowed to remain with their mothers.
15. Physician examination of the newborn consistent with guidelines of the American Academy of Pediatrics. A high-risk newborn shall be examined upon admission to the nursery.
16. Ensuring that every bassinet and incubator in the nursery bears the identification of the newborn's last name, sex, date and time of birth, the mother's last name, and the attending physician's name.
17. The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in aseptic containers, dated, stored under refrigeration, and consumed

or disposed of within 24- to 48 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use.

18. Preparation and use of formula including, ~~but not limited to:~~

- a. The distribution of feeding units immediately after assembly;
- b. The use of prepared formula only within the time period designated on the package; and
- c. The use of presterilized formula only, except in the case of facility-defined emergencies.

19. Screening newborns for risk factors associated with hearing impairment as required in §§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia and in accordance with the regulations of the Board of Health governing the Virginia Hearing Impairment Identification and Monitoring System (12VAC5-80).

20. Screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia and in accordance with the Regulations Governing the Newborn Screening and Treatment Program (12VAC5-70).

21. Reporting to the Virginia Department of Health all required reportable congenital defects.

22. Visitor contact with the newborn, including newborns delivered by cesarean section, and premature, sick, congenitally malformed, and dying newborns.

23. Completion of birth certificates.

24. Discharge planning appropriate for the needs of the patient for at-risk infants.

L. The additional policies and procedures required for the intermediate level newborn service shall include, ~~but not be limited to:~~

1. Insertion and maintenance of peripheral intravenous lines and use of pediatric infusion pumps that are accurate to plus or minus one milliliter an hour;
2. Insertion and maintenance of umbilical arterial lines and the use of pediatric infusion pumps accurate to plus or minus one milliliter an hour;
3. Use of heated, humidified, and blended supplemental oxygen by hood with a recording of oxygen levels every hour using a calibrated constant oxygen analyzer. The policy shall address consultation with a higher level nursery identified in the collaboration agreement when oxygen levels exceed 40% and remain at 40% or greater for a period of four hours or more;
4. Administration of nasogastric or orogastric feedings;

5. Use of saturation monitor (pulse oximeter or equivalent) for any newborn requiring supplemental oxygen;

6. Use of assisted ventilation in preparation for transport;

7. Initiation of PgE1 prior to transport; and

8. Administration of blood components and a policy for provision of partial and total exchange transfusions.

M. The additional policies and procedures required for the specialty level newborn service shall include, ~~but not be limited to:~~

1. Provision of ongoing assisted ventilation;
2. Administration of surfactant;
3. Preparation and administration of total parenteral nutrition (TPN);
4. Initiation and maintenance of pressor medications;
5. Provision for developmental follow up;
6. Insertion and maintenance of central umbilical arterial catheters or peripheral arterial lines with constant pressure monitoring;
7. Placement of chest tubes with water seal on an emergency basis;
8. Use of heated, humidified, and blended supplemental oxygen by hood with a recording of oxygen levels every hour using a calibrated constant oxygen analyzer;
9. Administration and maintenance of CPAP including the requirement for in-house physician coverage;
10. Daily availability of appropriate drug peak and trough assays on one milliliter or less of blood;
11. Cardioversion capability specific for newborns; and
12. Provision for ophthalmology consult and requirements regarding the examination of high-risk newborns.

N. The additional policies and procedures required for the subspecialty level newborn service shall include, ~~but not be limited to:~~

1. Provision for returning patients to the operating room within 30 minutes, if indicated;
2. Provision for echocardiography evaluation;
3. Provision for patient treatment on an extracorporeal membrane oxygenator (ECMO) or a written collaboration agreement with a hospital with this capability;
4. Provision for maintenance of central venous pressure monitoring; and
5. Provision for the maintenance of neonates on prostaglandin E1 (PgE1).

Regulations

O. A hospital with an emergency department or labor and delivery services, freestanding emergency department, or birthing center as defined in § 63.2-1914 of the Code of Virginia shall implement standardized protocols for identifying and responding to obstetric emergencies, including obstetric hemorrhage, preeclampsia, eclampsia, and other life-threatening conditions based on the protocols developed by the Virginia Neonatal Perinatal Collaborative.

12VAC5-410-1176. Outpatient surgical hospitals; reports of threats or acts of violence against health care providers.

A. For the purposes of this section:

"Employee of the hospital" or "employee" means an employee of the outpatient hospital or a health care provider credentialed by the outpatient hospital or engaged by the hospital to perform health care services on the premises of the outpatient hospital.

"Workplace violence" means any act of violence or threat of violence, without regard to the intent of the perpetrator, that occurs against an employee of the hospital while on the premises of such hospital and engaged in the performance of his duties. "Workplace violence" includes (i) the threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether physical injury is sustained, and (ii) any incident involving the threat of using dangerous weapons or using common objects as weapons or to cause physical harm, regardless of whether physical injury is sustained.

B. An outpatient hospital shall:

1. Establish a workplace violence incident reporting system, through which the outpatient hospital shall document, track, and analyze any incident of workplace violence reported.
2. Use the results of the analysis to make improvements in preventing workplace violence, including improvements achieved through continuing education in targeted areas, including (i) de-escalation training, (ii) risk identification, and (iii) violence prevention planning.
3. Clearly communicate the reporting system to all employees, including to any new employees at the employee orientation. The reporting system shall include guidelines on when and how to report incidents of workplace violence to the employer, security agencies, and appropriate law-enforcement authorities;
4. Record all reported incidents of workplace violence as voluntarily reported by an employee; and
5. Adopt a policy that prohibits any person from discriminating or retaliating against any employee of the outpatient hospital for reporting to, or seeking assistance or intervention from, the employer, security agencies, law-enforcement authorities, local emergency services

organizations, government agencies, or others participating in any incident investigation. The policy shall comply with the provisions of § 40.1-27.3 of the Code of Virginia.

C. An outpatient hospital shall maintain the record of reported incidents of workplace violence made pursuant to subsection B of this section for at least two years and shall include in the record, at a minimum:

1. The date and time of the incident;
2. A description of the incident, including the job title of the affected employee;
3. Whether the perpetrator was a patient, visitor, employee, or other person;
4. A description of where the incident occurred;
5. Information relating the type of incident, including whether the incident involved (i) a physical attack without a weapon; (ii) an attack with a weapon or object; (iii) a threat of physical force or use of a weapon or other object with the intent to cause bodily harm; (iv) sexual assault or the threat of sexual assault; or (v) anything else not listed in subdivisions (i) through (iv);
6. The response to and any consequences of the incident, including (i) whether security or law enforcement was contacted and, if so, their response and (ii) whether the incident resulted in any change to outpatient hospital policy; and
7. Information about the individual who completed the report, including the individual's name, job title, and the date of completion.

D. The outpatient hospital shall:

1. Report the data collected and reported pursuant to subsection C of this section to the chief medical officer and the chief nursing officer of the outpatient hospital on, at a minimum, a quarterly basis; and
2. Send a report to the Virginia Department of Health on an annual basis that includes, at a minimum, the number of incidents of workplace violence voluntarily reported by an employee pursuant to subsection B of this section. A report made to the Virginia Department of Health pursuant to this subsection shall be aggregated to remove any personally identifiable information.

VA.R. Doc. No. R26-8289; Filed September 19, 2025, 3:07 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. 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: 12VAC5-501. Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (amending 12VAC5-501-130).

Statutory Authority: § 32.1-211 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Julie Henderson, Director, Food and General Environmental Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7455, fax (804) 864-7475, TDD (800) 828-1120, or email julie.henderson@vdh.virginia.gov.

Background: The Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (12VAC5-501) protects the health, safety, and welfare of migrant workers and their families during their employment and residence in Virginia. This regulation establishes standards for (i) licensure and enforcement, (ii) adequate and convenient supply of water, (iii) disposal of sewage, and (iv) general maintenance of facilities such as bathrooms, cooking facilities, sleeping quarters, and lighting and ventilation.

Summary:

The amendment removes the requirement that only a health director may conduct an informal hearing and allows a designee, such as a presiding officer, to conduct hearings pursuant to 2.2-4019 of the Code of Virginia.

12VAC5-501-130. Case decisions.

The commissioner or ~~his~~ the commissioner's designee may make case decisions based on informal hearings. An informal hearing is conducted by ~~a district or local health department with the district or local health director presiding the department~~ and held in conformance with § 2.2-4019 of the Code of Virginia. The district or local health department may record the hearing or create a written summary or record of the proceedings.

VA.R. Doc. No. R26-8278; Filed September 19, 2025; 3:11 p.m.

Final Regulation

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

Title of Regulation: 12VAC5-590. Waterworks Regulations (amending 12VAC5-590-10, 12VAC5-590-570).

Statutory Authority: §§ 32.1-12, 32.1-170, and 32.1-174.5 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Dwayne Roadcap, Director, Office of Drinking Water, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7522, email dwayne.roadcap@vdh.virginia.gov.

Summary:

Pursuant to Chapters 631 and 672 of the 2025 Acts of Assembly, the amendments (i) add and update definitions, (ii) require the owner of a waterworks to report certain events to the Virginia Department of Health Office of Drinking Water (ODW) within two hours after discovery of a contaminant release or critical equipment failure or malfunction, and (iii) require waterworks that must submit a monthly report to ODW to include any noncritical equipment failure or malfunction that has not been resolved by the monthly reporting deadline.

12VAC5-590-10. Definitions and units of measurement.

A. Definitions. As used in this chapter, the following words, terms, and abbreviations shall have meanings respectively set forth unless the context clearly requires a different meaning:

"Action level" or "AL" means the concentration of lead or copper in water specified in 12VAC5-590-385, which determines, in some cases, the treatment requirements contained in 12VAC5-590-405 that an owner is required to complete.

"Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia. The APA is the basic law conferring authority on agencies either to make regulations or case decisions as well as to standardize court review thereof.

"Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest point of the potable water outlet and the flood rim of the receiving vessel.

"ANSI" means the American National Standards Institute.

"Applied water" means water that is ready for filtration.

Regulations

"ASME" means the American Society of Mechanical Engineers.

"ASSE" means the American Society of Sanitary Engineering.

"ASTM" means the American Society for Testing and Materials.

"Auxiliary water system" means any water supply or system on or available to the premises of the consumer other than the waterworks. These may be polluted or contaminated, objectionable, or of questionable quality and constitute an unapproved water supply or system over which the waterworks owner does not have control.

"AWWA" means the American Water Works Association.

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into a waterworks.

"Backflow elimination method" means the air gap separation or physical disconnection that will eliminate the cross-connection.

"Backflow prevention assembly" means a mechanical unit, designed to control various cross-connections and stop the reversal of flow that includes an inlet and outlet shutoff valve and test cocks to facilitate testing of the assembly. Backflow prevention assemblies include the reduced pressure principle backflow prevention assembly, the double check valve assembly, and the pressure vacuum breaker assembly.

"Backflow prevention device" means a mechanical unit designed to control cross-connections and stop the reversal of flow that is not testable because it does not have inlet and outlet shutoff valves or test cocks. A backflow prevention device is not generally designed or constructed to withstand continuous pressure over 12 hours, or to control high hazards. A backflow prevention device generally includes the atmospheric type vacuum breakers and the dual check valve type devices.

"Backpressure backflow" means backflow caused by pressure in the downstream piping that is superior to the supply pressure at the point of consideration.

"Backsiphonage" means backflow caused by a reduction in pressure that causes a partial vacuum, creating a siphon effect.

"Bag filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. Bag filters are typically constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank filtration" means a water treatment process that uses a well to recover surface water that has naturally infiltrated into groundwater through a river bed or bank. Infiltration is

typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well.

"Best available technology" or "BAT" means the best practicable technology, treatment techniques, or other means that the department finds, after examination for efficacy under field conditions and not solely under laboratory conditions, that are available (taking cost into consideration).

"Board" means the State Board of Health.

"Boil water advisory" and "boil water notice" mean a statement that informs consumers that drinking water is or may be contaminated and that the water should be boiled before being used for human consumption.

"BSSP" means a bacteriological sample siting plan.

"CAP" means a corrective action plan.

"Cartridge filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. Cartridge filters are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"Case decision" means an agency determination as defined in § 2.2-4001 of the Code of Virginia.

"CCCP" means a cross-connection control program.

"CCR" means consumer confidence report.

"CDC" means the Centers for Disease Control and Prevention.

"CFE" means the combined filter effluent.

"CFR" means the Code of Federal Regulations.

"Clean compliance history" means a record of no PMCL violations for microbiological contaminants, no monitoring violations under 12VAC5-590-370, and no coliform treatment technique trigger exceedances or treatment technique violations under 12VAC5-590-392.

"Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into floc.

"Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale waterworks and of the consecutive waterworks that receive finished water.

"Commissioner" means the State Health Commissioner, who is the executive officer of the board.

"Community waterworks" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which a waterworks shall monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993, and ended December 31, 2001, with subsequent compliance cycles continuing thereafter.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle consists of three three-year compliance periods. The first compliance period began January 1, 1993, and ended December 31, 1995, with subsequent compliance periods continuing thereafter.

"Comprehensive business plan" means a plan detailing the technical, managerial, and financial commitments that the owner will make in order to assure that the waterworks will have the capability to provide water that complies with this chapter over the long term.

"Confirmation sample" means a sample to be collected by the owner within a specified time after the results of the initial sample are known to have exceeded a specified limit or standard in order to validate the initial result and to determine compliance.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

"Consecutive waterworks" means a waterworks that receives some or all of its finished water from one or more waterworks. Consecutive waterworks may provide additional treatment to finished water. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

"Consolidated" means rock made from sedimentary, igneous, or metamorphic materials that have been metamorphosed or cemented together forming strata or bodies of rock.

"Consumer" means any person receiving water for human consumption from a waterworks.

"Consumer's water system" means any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

"Containment" means the safeguard against backflow into a waterworks from a consumer's water system by installing an appropriate backflow prevention assembly, backflow prevention device, or backflow elimination method at the service connection or downstream of the service connection but before any unprotected takeoffs.

"Contaminant" means any objectionable or hazardous physical, chemical, biological, or radiological substance or matter in water.

"Contaminant release" means an unplanned or uncontrolled release by a waterworks of a chemical contaminant or petroleum or synthetic oil into the water that is treated by or distributed from the waterworks to customers. "Contaminant

release" includes any such release at treatment facilities and raw or finished water pump stations.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

"Corrosion inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Critical equipment failure or malfunction" means any equipment failure or malfunction that has significant potential for serious adverse effects on human health as a result of short-term exposure or to cause a widespread disruption of water service.

"Cross-connection" means any actual or potential link, connection, or physical arrangement, direct or indirect, between used water, an auxiliary water system, or other source of contamination or pollution to the waterworks through which backflow can occur.

"DBPPs" means disinfection byproduct precursors.

"DBPs" means disinfection byproducts.

"DCLS" means the Virginia Department of General Services, Division of Consolidated Laboratory Services.

"Department" means the Virginia Department of Health.

"DEQ" means the Virginia Department of Environmental Quality.

"Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which (i) a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and (ii) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

"Disinfectant" means any chemical and physical agents, including chlorine, chlorine dioxide, chloramines, ozone, and UV light, added to water in any part of the treatment or distribution process for the purpose of killing or inactivating pathogenic organisms.

"Disinfection" means a process that inactivates or destroys pathogenic organisms in water by use of a disinfectant.

"Disinfection profile" means a summary of *Giardia lamblia* or virus inactivation through the water treatment plant.

"Distribution main" means a water pipeline whose primary purpose is to convey drinking water to service connections.

Regulations

"Distribution system" means a network of pipelines and appurtenances by which a waterworks delivers drinking water to its consumers.

"DOC" means the dissolved organic carbon in a water sample.

"Double check valve assembly" or "double check detector backflow assembly" means a backflow prevention assembly composed of two single independently acting check valves including tightly closing shutoff valves located at each end of the assembly and test cocks to facilitate testing of the assembly, used for low hazard situations.

"DPOR" means the Virginia Department of Professional and Occupational Regulation.

"Drawdown" means the difference, measured vertically, between the static water level in the well and the water level during pumping.

"Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Entry point" means the place where water from the source after application of any treatment is delivered to the distribution system. Where two or more sources are combined before distribution, the entry point is the location that is representative of the blended water following all treatment.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment failure" means an unplanned condition when the equipment cannot perform or is unable to perform as designed because of a problem with such equipment. "Equipment failure" does not mean a planned (i) removal from service, (ii) repair, or (iii) maintenance.

"Equipment malfunction" means an unplanned condition during which the equipment cannot perform or is unable to perform as designed due to a problem originating from outside the waterworks rather than a problem associated or originating with the equipment itself, including an issue with third-party provided gas or electric power feeds or a cyberattack.

"Exemption" means allowing a waterworks that satisfies the criteria in 12VAC5-590-150 to deviate from a specific PMCL or treatment technique requirement that is granted to the waterworks for a limited period of time.

"Filter profile" means a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from start-up to backwash inclusively, that includes

an assessment of filter performance while another filter is being backwashed.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Finished water" means water that is introduced into the distribution system of a waterworks and is intended for distribution and consumption without further treatment, except as treatment is necessary to maintain water quality in the distribution system (e.g., booster disinfection).

"Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

"Flowing stream" means a course of running water flowing in a definite channel.

"Free available chlorine" means that portion of the total chlorine residual remaining in water at the end of a specified contact period that will react chemically and biologically as hypochlorous acid or hypochlorite ion.

"GAC" means granular activated carbon.

"Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Groundwater" means all water obtained from sources not classified as surface water.

"Groundwater system" means any waterworks that uses groundwater as its source of supply; however, a waterworks that combines all its groundwater with surface water or with groundwater under the direct influence of surface water before treatment is not a groundwater system. Groundwater systems include consecutive waterworks that receive potable water from another groundwater source.

"Groundwater under the direct influence of surface water" or "GUDI" means any water beneath the surface of the ground with (i) significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or *Cryptosporidium* or (ii) significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH that closely correlate to climatological or surface water conditions. GUDI source determinations shall be made by the department in accordance with 12VAC5-590-430.

"GWMA" means the groundwater management area designation by the State Water Control Board.

"Haloacetic acids (five)" or "HAA5" means the sum of the concentrations of the haloacetic acids, expressed in milligrams

per liter (mg/L) as rounded to two significant figures. For the purpose of this chapter the HAA5 shall mean monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid.

"Halogen" means one of the chemical elements chlorine, bromine, fluorine, astatine, or iodine.

"Health hazard" means any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

"HPC" means the heterotrophic plate count of a bacterial population.

"Human consumption" means drinking, food preparation, dishwashing, bathing, showering, hand washing, teeth brushing, and maintaining oral hygiene.

"Hypochlorite" means the ionic component from the dissociation of hypochlorous acid that performs the function of disinfection. It is the available active ingredient in liquid hypochlorite disinfectants such as sodium and calcium hypochlorite.

"Initial compliance period" means the compliance period in which chemical and radiological monitoring began, and it is represented by the first full three-year compliance period beginning at least 18 months after rule promulgation. It applies to inorganic, organic, and radionuclide contaminants listed in Tables 340.1, 340.2, and 340.4, respectively.

"Isolation" means the safeguard against backflow into a waterworks from a consumer's water system by installing an appropriate backflow prevention assembly or device or by installing a backflow elimination method at the sources of potential contamination in the consumer's water system. This is also called point-of-use isolation.

"Karst geology" means an area predominantly underlain by limestone, dolomite, or gypsum and characterized by rapid underground drainage. These areas often feature sinkholes, caverns, and sinking or disappearing creeks.

"Lake or reservoir" means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Lead free" means the following: (i) when used with respect to solders and flux, refers to solders and flux containing not more than 0.2% lead; and (ii) when used with respect to pipes, pipe fittings, plumbing fittings, and plumbing fixtures, refers to the weighted average of wetted surfaces of pipes, pipe fittings, plumbing fittings, and plumbing fixtures containing not more than 0.25% lead.

"Lead service line" means a pipeline made of lead that connects the distribution main to the building inlet and any lead pigtail, gooseneck, or other fitting that is connected to the lead pipeline.

"Leakage" means the loss of potable water from the distribution system, up to the points of service connections, through breaks or defects in piping and piping appurtenances.

"Legionella" means a genus of bacteria, some species of which cause a type of pneumonia called Legionnaires disease.

"Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and, when possible, the likely reason that the waterworks triggered the assessment.

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and, when possible, the likely reason that the waterworks triggered the assessment in a more comprehensive investigation than a Level 1 assessment.

"Locational running annual average" or "LRAA" means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

"Log inactivation" means the inactivation of organisms expressed on a logarithmic scale. For example, a 99.9% inactivation is a 3-log inactivation; whereas a 99.99% inactivation is a 4-log inactivation.

"Log removal" means the removal of organisms expressed on a logarithmic scale. For example, a 99.9% is a 3-log removal; whereas a 99.99% removal is a 4-log removal.

"Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in potable water that is delivered to any consumer of a waterworks. MCLs are set as close to the MCLGs as feasible using the BAT. MCLs may be either "primary" (PMCL), meaning based on health considerations, or "secondary" (SMCL), meaning based on aesthetic considerations.

"Maximum contaminant level goal" or "MCLG" means the maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur and that allows an adequate margin of safety. Maximum contaminant level goals are nonenforceable health goals.

"Maximum residual disinfectant level" or "MRDL" means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects.

"Maximum residual disinfectant level goal" or "MRDLG" means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and that allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

Regulations

"Maximum total trihalomethane potential" or "MTP" means the maximum concentration of total trihalomethanes (TTHMs) produced in a given water containing a residual disinfectant after seven days at a temperature of 25°C or above.

"Membrane filtration" means a pressure or vacuum-driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size exclusion mechanism, and that has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. Included in this definition are the common membrane classifications of microfiltration (MF), ultrafiltration (UF), nanofiltration (NF), and reverse osmosis (RO).

"Membrane module" means the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet.

"Membrane technology" means a process that uses a permeable membrane to remove ions, molecules, or particles from the process stream, such as MF, UF, NF, RO, and electrodialysis reversal (EDR).

"Membrane unit" means a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the system for the purpose of integrity testing or other maintenance.

"Method detection limit" or "MDL" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

"Microfiltration" or "MF" means a pressure-driven membrane technology that separates particles, based on the pore-size rating of the membrane, from a feed stream by using a sieving mechanism. Typically, MF can remove particles down to 0.1 micrometer in size.

"Monthly operating report" or "MOR" means the report submitted by a waterworks to the office at least once each month that describes the waterworks' operational status and compliance with applicable laws, regulations, and policies, as directed by the department.

"Most probable number" or "MPN" means the density or number of organisms per unit volume most likely to be present in a water sample and obtained from method-specific statistical MPN tables.

"MPA" means the microscopic particulate analysis method approved by EPA for use in the determination of whether a groundwater is under the influence of surface water.

"Nanofiltration" or "NF" means a pressure-driven membrane technology designed to remove multivalent ions ("softening") and other constituents based on the pore size, which ranges

from one to 10 nanometers. Nanofiltration membranes typically operate under a pressure range of 600 to 1100 psi.

"Noncommunity waterworks" means a waterworks that is not a community waterworks, but operates at least 60 days out of the year.

"Noncritical equipment failure or malfunction" means an equipment failure or malfunction that is not a critical equipment failure or malfunction, regardless of whether such anomaly is noticeable to customers of the waterworks.

"Nonpotable water" means water not classified as pure water.

"Nontransient noncommunity waterworks" or "NTNC" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year. When used in the context of an NTNC, "regularly serves" means four or more hours per day, for four or more days per week, for 26 or more weeks per year.

"NSF" means NSF International, formerly known as the National Sanitation Foundation. NSF collaborates with ANSI and Canadian authorities on drinking water standards development (NSF/ANSI/CAN).

"Office" means the department's Office of Drinking Water.

"One hundred year flood elevation" or "100-year flood elevation" means flood elevation that has a 1.0% probability of being equaled or exceeded in any given year.

"Operating staff" means individuals employed or appointed by an owner to work at a waterworks. Included in this definition are operators, whether or not the operator's license is appropriate for the classification and category of the waterworks, and unlicensed individuals.

"Operator" means any individual with the requisite skills, employed or appointed by any owner, who is designated by the owner to be the person having full responsibility for the waterworks operations and any subordinate operating staff. The individual may be a supervisor, a shift operator, or a substitute in charge, and have duties including testing or evaluation to control waterworks operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks.

"Optimal corrosion control treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at consumers' taps while ensuring that the treatment does not cause the waterworks to violate any other section of this chapter.

"Optimum fluoride ion concentration" means that fluoride ion concentration recommended by the U.S. Public Health Service for protection from dental caries.

"Owner" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government that supplies or proposes to supply water to any person within the Commonwealth from or by means of any waterworks.

"PAC" means powdered activated carbon.

"PCBs" means polychlorinated biphenyls.

"PER" means a preliminary engineering report.

"Permit" means an authorization granted by the commissioner to construct or operate a waterworks.

"Permitted capacity" means the limiting hydraulic capability of the waterworks, taking into consideration the source water capacity, treatment facilities, finished water storage, delivery, and distribution system.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, or instrumentality thereof.

"pH" means the negative logarithm of the hydrogen ion concentration of an aqueous solution.

"Physical disconnection" means the removal or absence of pipes, fittings, or fixtures that connect a waterworks directly or indirectly to any other water system.

"Picocurie" or "pCi" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"PMCL" means the primary maximum contaminant level of a contaminant based on health considerations.

"Point of disinfectant application" means the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface runoff.

"Point-of-entry device" or "POE device" means a treatment device applied to the water entering a house or building for the purpose of reducing contaminants in the water distributed throughout the house or building.

"Point-of-use device" or "POU device" means a treatment device applied to a single tap for the purpose of reducing contaminants in the water at that one tap.

"Pollution" means the presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk to human health or impair the usefulness of the water.

"Potable water" means the same as "pure water."

"Practical quantitation level" or "PQL" means the lowest level that can be reliably measured within specified limits of precision and accuracy during routine laboratory conditions.

"Prechlorination" means the application of chlorine to water before filtration.

"Presedimentation" means a preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a water treatment plant.

"Pressure vacuum breaker assembly" means a backflow prevention assembly (i) designed to prevent backsiphonage and used for high hazard or low hazard situations; (ii) composed of an independently operating spring-loaded check valve, an independently operating spring-loaded air-inlet valve, and tightly closing shutoff valves located at each end of the assembly; and (iii) fitted with properly located test cocks to facilitate testing of the assembly.

"Primary disinfection" means disinfection to achieve a desired level of inactivation of targeted pathogenic organisms in water by chemical or physical agents as an integral part of the treatment process.

"Process fluids" means any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted that would constitute a health, environmental, or system hazard if introduced into the waterworks. This includes (i) polluted or contaminated water; (ii) used waters; (iii) cooling waters; (iv) contaminated natural waters taken from wells, lakes or reservoirs, streams, or irrigation systems; (v) chemicals in solution or suspension; or (vi) oils, gases, acids, alkalis, and other liquid and gaseous fluid used in industrial or other processes.

"Process water" means water used for dissolving dry chemicals; diluting liquid chemicals; and operating chemical feeders, treatment facilities, or equipment.

"Project documents" means the engineer's report, design criteria, preliminary and final plans, specifications, and procurement documents for the construction of new waterworks or modifications to existing waterworks.

"Pure water" means water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served.

"QCRV" means the quality control release value used in challenge tests of microfiltration (MF) and ultrafiltration (UF) membrane filters.

"RAA" means running annual average.

"Reduced pressure principle backflow prevention assembly" or "reduced pressure zone backflow prevention assembly" or "RPZ assembly" means an assembly designed to prevent backsiphonage or backpressure backflow and used for high or low hazard situations, composed of two independently

Regulations

operating spring-loaded check valves together with an independent, hydraulically operating pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. The assembly shall include tightly closing shutoff valves located at each end of the RPZ assembly and shall be fitted with properly located test cocks to facilitate testing of the assembly.

"REM" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A millirem (mrem) is 1/1000 of an REM.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Residual disinfectant concentration" means the concentration of disinfectant measured in mg/L in a representative sample of water.

"Reverse osmosis" or "RO" means a membrane technology designed to remove salts, low-molecular weight solutes, and all other constituents up to 0.0001 micron in size by applying a pressure in excess of osmotic pressure to force water through a semi-permeable membrane from a region of high solution concentration to a region of lower solution concentration.

"Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a protective barrier that is already in place.

"Sanitary survey" means an evaluation conducted by the department of a waterworks' water supply, facilities, equipment, operation, maintenance, monitoring records, and overall management to ensure the provision of potable water.

"SDWA" means the Safe Drinking Water Act (42 USC § 300f et seq.) and its amendments.

"Seasonal waterworks" means a noncommunity waterworks that is not operated as a waterworks on a year-round basis, and starts up and shuts down at the beginning and end of each operating season.

"Secondary disinfection" means disinfection by chemical oxidants or equivalent agents applied at the entry point or in the distribution system to provide a residual disinfectant in water to maintain water quality and safeguard against chance contamination from permeation, leaching, intrusion, regrowth, or biofilms.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Service connection" means the point of delivery of finished water from a waterworks to a consumer's water system, fire protection system, irrigation system, and to all other points where finished water is delivered through the distribution system to a consumer. Generally, the service connection occurs

at the water meter, or at the distribution main if no water meter is installed, or in the case of an owner of both the waterworks and the building supplied, the point of entry into the building. Service connections may be permanent, temporary, or emergency.

"Service line" means the pipeline or service pipe between the service connection and the building connection.

"Sewer" means any pipe or conduit used to convey sanitary sewage, stormwater, or industrial waste streams. Combined sewers convey both stormwater and sanitary sewage.

"Significant deficiency" means any defect in a waterworks' design, operation, maintenance, or administration, as well as the failure or malfunction of any waterworks component that may cause or has the potential to cause, an unacceptable risk to health or could affect the reliable delivery of potable water to consumers.

"Single-family structure" means, for the purpose of 12VAC5-590-375 B only, a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Site visit" means a tour of a waterworks by the department or other authorized persons for purposes including assessing and documenting its physical condition, operations, and compliance activities.

"Slow sand filtration" means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.4 m/h), resulting in substantial particulate removal by physical and biological mechanisms.

"SMCL" means the secondary maximum contaminant level of a contaminant. SMCLs are based on aesthetic qualities related to the public acceptance of drinking water.

"SOP" means standard operating procedure.

"Source water" means water as it is pumped or otherwise withdrawn from a well, spring, stream, lake or reservoir, or any body of surface water (natural or impounded), and before any treatment.

"Supervisory control and data acquisition" or "SCADA" means a computer-controlled system used by a waterworks to monitor its operations. Typical design features may be specific to individual waterworks and include alarm, response, control, and data acquisition.

"Surface water" means all water open to the atmosphere and subject to surface runoff.

"SUVA" means specific ultraviolet absorption at 254 nanometers (nm), an indicator of the humic content of the water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV₂₅₄) (in m⁻¹) by its concentration of DOC (in mg/L).

"Synthetic organic chemical" or "SOC" means a man-made organic compound, generally utilized for agriculture or industrial purposes. Table 340.2 lists SOC's regulated as contaminants.

"System hazard" means a condition posing an actual, or threat of, damage to the physical properties of the waterworks or a consumer's water system.

"TDS" means total dissolved solids.

"TMF" means the technical, managerial, and financial capabilities to operate and maintain a waterworks.

"Too numerous to count" or "TNTC" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Total organic carbon" or "TOC" means total organic carbon in milligrams per liter (mg/L) measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total trihalomethanes" or "TTHM" means the sum of the concentrations of the trihalomethanes (THMs) expressed in milligrams per liter (mg/L) and rounded to two significant figures. For the purpose of this chapter, TTHM shall mean trichloromethane (chloroform), dibromochloromethane, bromodichloromethane, and tribromomethane (bromoform).

"Transient noncommunity waterworks" or "TNC" means a noncommunity waterworks that is not a nontransient noncommunity waterworks (NTNC). A TNC serves at least 25 persons daily for at least 60 days out of the year.

"Treatment" means any process that changes the chemical, physical, radiological, or bacteriological quality of water.

"Treatment technique" or "TT" means a technology or process demonstrated to the satisfaction of the department to lead to a reduction in the level of a specific contaminant sufficient to comply with this chapter.

"Triggered source water monitoring" means monitoring required of any groundwater system as a result of a total coliform-positive sample in the distribution system.

"Trihalomethane" or "THM" means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Ultrafiltration" or "UF" means a membrane technology designed to remove particles up to 0.01 micron in size.

"Unconsolidated" means loose sediment that has not been compacted, cemented, lithified, or metamorphosed into rock. Sediment may be derived from a sedimentary-type, igneous-type, metamorphic-type rock, which includes clay, silt, sand, gravel, and mixtures of these particle types.

"Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens (except residual disinfection) and is directly open to the atmosphere.

"Unregulated contaminant" or "UC" means a contaminant for which a monitoring requirement has been established, but for which no MCL or treatment technique requirement has been established.

"USBC" means the Uniform Statewide Building Code (13VAC5-63).

"Used water" means any water supplied by a waterworks to a consumer's water system after it has passed through the service connection and is no longer under the control of the owner.

"UV" means ultraviolet.

"Variance" means allowing a waterworks that satisfies the criteria in 12VAC5-590-140 to provide drinking water that does not fully comply with this chapter. A PMCL variance is a variance to a primary maximum contaminant level, or a treatment technique requirement. An operational variance is a variance to an operational regulation or a SMCL.

"Virus" means a virus of fecal origin that is infectious to humans by waterborne transmission and must be preemptively inactivated through disinfection before human consumption.

"Volatile organic chemical" or "VOC" means an organic compound generally characterized by its low molecular weight and its tendency to vaporize rapidly at relatively low temperatures and pressures. Table 340.2 lists VOCs regulated as contaminants.

"VOSH" means the Virginia Occupational Safety and Health program.

"Waiver" means permission from the department to deviate from the monitoring and reporting requirements in this chapter for a specific contaminant.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a waterworks that is deficient in treatment, as determined by the commissioner or the State Epidemiologist.

"Water supply" means the source of water taken into a waterworks including wells, streams, springs, lakes or reservoirs, and other bodies of surface waters (natural or impounded), and the tributaries thereto, and all impounded groundwater. The term "water supply" shall not include any waters above the point of intake of the waterworks.

"Water treatment plant" means that portion of a waterworks intended specifically for water treatment; it may include, among other operations, coagulation, sedimentation, filtration, and disinfection.

Regulations

"Waterworks" means a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. "Waterworks" includes all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of potable water except the piping and fixtures inside the building where such water is delivered.

"Waterworks business operation plan" means the same as "comprehensive business plan."

"Wholesale waterworks" means a waterworks that treats source water as necessary to produce potable water and then delivers some or all of that potable water to another waterworks. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

B. As used in this chapter, the following units of measurement shall use the abbreviations as shown in this subsection:

C – degrees Celsius
CU – color units
ft² – square feet of area
ft/min – feet per minute
ft/sec – feet per second
gpd – gallons per day
gpd/ft² – gallons per day per square foot
gpm – gallons per minute
gpm/ft – gallons per minute per foot
gpm/ft² – gallons per minute per square foot
in – inches
lb – pounds
lb/day – pounds per day
lb/ft² – pounds per square foot
MFL – million fibers per liter
MGD – million gallons per day
mg/L – milligrams per liter
min – minutes
mJ/cm² – millijoules per square centimeter
mrem – millirem
nm – nanometer (10⁻⁹ meter)
NTU – nephelometric turbidity units
pCi – picocuries
pCi/L – picocuries per liter

ppb – parts per billion, or micrograms per liter (µg/L)
ppm – parts per million, or milligrams per liter (mg/L)
ppq – parts per quadrillion, or pictograms per liter (pq/L)
ppt – parts per trillion, or nanograms per liter (ng/L)
psi – pounds per square inch
psig – pounds per square inch gauge
scfm/ft² – standard cubic feet per minute per square foot
µm – micrometers (10⁻⁶ meter or microns)
µg/L – micrograms per liter
µS/cm – microSiemens per centimeter
W/m² – Watts per square meter

12VAC5-590-570. Operational reporting requirements.

A. Monthly operational reports.

1. A classified waterworks is required to report monthly information to the department no later than the 10th of the month following the month during which the monitoring period occurred.

2. A classified waterworks using conventional filtration shall report using the monthly operating report (MOR) form approved by the department. All other classified waterworks shall report the required information specified in Tables 570.1 through 570.14, based on the treatment processes employed. Monitoring data shall be collected for each day the operating staff attend to the operation of the facilities.

3. To determine if a waterworks using UV reactor systems is operating within validated conditions designed in accordance with 12VAC5-590-1005, the following parameters shall be monitored and reported: (i) on/off status for each reactor; (ii) flow rate through reactor train; (iii) UV intensity as measured by a UV sensor; (iv) lamp status; (v) lamp age; and (vi) UV transmittance. The operational set points shall be reported if set point control is used. The calculated UV dose shall be reported if other than a set point control is used.

4. An unclassified waterworks is required to report quarterly the following information specified in Table 570.1, where applicable, to the department no later than the 10th of the month following the calendar quarter during which the monitoring period occurred.

5. An unclassified waterworks that is using any of the treatment processes described in Tables 570.2 through 570.14 is required to report no later than the 10th of the month following the calendar month during which the monitoring occurred. The report shall contain the required information specified in Tables 570.1 through 570.14 based on the treatment processes employed. The monitoring data

shall be collected at a minimum frequency as established by the department.

6. An owner of a waterworks that is required to submit an MOR to the office shall include any noncritical equipment failure or malfunction that could adversely affect water quality, public health, or service continuity that occurred during the applicable reporting month and was not resolved by the reporting deadline. For the purposes of this subsection, any noncritical equipment failure or malfunction that is effectively addressed by equipment repair or replacement, alternative equipment use, alternative system operation, or such other response shall be considered resolved.

Z.

EDITOR'S NOTE: In 12VAC5-590-570 A 7, only the label of subdivision 7 is amended; therefore, the text for subdivision 7 is not set out.

B. The owner shall report the following incidents ~~within 24 hours to the department:~~

1. Any critical equipment failure or malfunction or contaminant release shall be reported to the office as soon as practicable but no more than two hours after discovery.

2. Water pressure below the 20 psi minimum required in the distribution system, including zero or negative pressure, that is not caused by a critical equipment failure or malfunction shall be reported to the department within 24 hours. Examples of these events include treatment plant or pump station shutdowns due to equipment failure, power outages, emptying of storage tanks, and draining of the distribution system during fire flow events.

2. ~~Flooding of clearwells.~~

3. ~~Flooding of groundwater wells.~~

4. ~~3.~~ Any other situation that occurs with the waterworks that presents or may present an imminent and substantial threat to public health shall be reported to the department within 24 hours.

VA.R. Doc. No. R26-8375; Filed September 19, 2025, 12:49 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. 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: 12VAC5-610. Sewage Handling and Disposal Regulations (amending 12VAC5-610-200).

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Lance Gregory, Director, Division of Onsite Sewage and Water Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7491, fax (804) 864-7475, or email lance.gregory@vdh.virginia.gov.

Background: The Sewage Handling and Disposal Regulations (12VAC5-610) ensures all sewage within the Commonwealth is handled and disposed of in a safe and sanitary manner to protect the safety, health, and welfare of the public. These regulations establish standards for (i) the determination of whether a permit for handling or disposing of sewage should be issued or denied, and (ii) the requirements necessary to secure a permit for handling and disposing of sewage.

Summary:

The amendments (i) remove the requirement that only a health director may conduct informal fact-finding conferences and allow a designee, such as a presiding officer, to conduct these conferences pursuant to § 2.2-4019 of the Code of Virginia; (ii) update citations to the Code of Virginia; (iii) remove a restriction on subpoena power as it is allowed pursuant to § 2.2-4022 of the Code of Virginia; (iv) align the timetable to render a case decision with § 2.2-4021 B of the Code of Virginia; and (v) remove the requirement for a hearings officer to submit findings of fact to the Commissioner of Health for final decision.

12VAC5-610-200. Hearing types.

Hearings before the board, commissioner or the commissioner's designees shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved.

A. Informal hearings. An informal ~~hearing~~ fact-finding proceeding is ~~a meeting with the district or local health an informal conference between the department with the district or local health director presiding and the named party held in conformance accordance with § 9-6.14:11 § 2.2-4019 of the Code of Virginia. The district or local health department shall consider all evidence presented at the meeting which that is relevant to the issue in controversy. Presentation of evidence, however, is entirely voluntary. The district or local health department shall have no subpoena power. No verbatim record need be taken at the informal hearing. The local or district health director department shall review the facts presented and based on those facts render a decision. A written copy of the decision and the basis for the decision shall be sent to the appellant within 15 work days of the hearing unless the parties mutually agree to a later date in order to allow the department to evaluate additional evidence. If the decision is adverse to the interests of the appellant, an aggrieved appellant may request an adjudicatory hearing pursuant to 12VAC5-610-200 B.~~

Regulations

B. Adjudicatory hearing for appeals of denials of sewage system construction permits. The adjudicatory hearing is a formal, public adjudicatory proceeding before the commissioner, the Sewage Handling and Disposal Appeal Review Board, or a designated hearing officer, ~~and~~ held in conformance with ~~§ 9-6-14:12~~ § 2.2-4020 of the Code of Virginia. An adjudicatory hearing includes the following features:

1. Notice. Notice ~~which that~~ states the time and place and the issues involved in the prospective hearing shall be sent to the owner or the person who is the subject of the hearing. Notice shall be sent by certified mail at least 15 calendar days before the hearing is to take place.

2. Record. A verbatim record of the hearing shall be made by a court reporter. A copy of the transcript of the hearing, if transcribed, will be provided within a reasonable time to any person upon written request and payment of the cost.

3. Evidence. All interested parties shall attend the hearing and submit oral and documentary evidence and rebuttal proofs, expert or otherwise, that ~~is~~ are material and relevant to the issues in controversy. The admissibility of evidence shall be determined in accordance with ~~§ 9-6-14:12~~ § 2.2-4020 of the Code of Virginia.

4. Counsel. All parties may be accompanied by and represented by counsel and are entitled to conduct such cross-examination as may elicit a full and fair disclosure of the facts.

5. Subpoena. Pursuant to ~~§ 9-6-14:13~~ § 2.2-4020 of the Code of Virginia, the commissioner, Sewage Handling and Disposal Appeal Board, or hearing officer may issue subpoenas on behalf of themselves for the attendance of witnesses and the production of books, papers, maps, or other materials. Failure to appear or to testify or to produce materials without adequate excuse may be reported by the commissioner to the appropriate circuit court for enforcement.

6. ~~Judgement~~ Judgment and final order. The commissioner may designate a hearing officer or subordinate to conduct the hearing as provided in ~~§ 9-6-14:12~~ § 2.2-4020 of the Code of Virginia, and to make written recommended findings of fact and conclusions of law ~~to be submitted for review and final decision by the commissioner.~~ The final decision of the ~~commissioner~~ shall be reduced to writing and will contain the explicit findings of fact upon which ~~his~~ the decision is based. A certified copy of the decision shall be delivered to the affected owner. Notice of a decision will be served upon the parties and become a part of the record. Service may be by personal service or certified mail, return receipt requested.

VA.R. Doc. No. R26-8312; Filed September 19, 2025, 3:13 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. 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: **12VAC5-630. Private Well Regulations (amending 12VAC5-630-180).**

Statutory Authority: §§ 32.1-12 and 32.1-176.4 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Lance Gregory, Director, Division of Onsite Sewage and Water Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7491, fax (804) 864-7475, or email lance.gregory@vdh.virginia.gov.

Background: The Private Well Regulations (12VAC5-630) protects the health, safety, and welfare of the Commonwealth through the proper construction and permitting of private wells. The regulation establishes standards for (i) private well locations, their construction, and maintenance to ensure protection of groundwater resources; (ii) issuance and denial of permits; (iii) standards for obtaining a permit; and (iv) the process for inspections and abandonment of private wells.

Summary:

The amendments (i) remove the requirement that only a health director may conduct informal fact-finding conferences and allow a designee, such as a presiding officer, to conduct these conferences; (ii) remove a restriction on subpoena power as it is allowed pursuant to § 2.2-4022 of the Code of Virginia; (iii) align the timetable to render a case decision with § 2.2-4021 B of the Code of Virginia; and (iv) remove the requirement for a hearings officer to submit findings of fact to the Commissioner of Health for a final decision.

12VAC5-630-180. Hearing types.

Hearings before the commissioner or the commissioner's designees shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved.

1. Informal hearings. An informal ~~hearing~~ fact-finding proceeding ~~is a meeting with a district or local health an informal conference between the department with the district or local health director presiding and the named party held in conformance~~ accordance with § 2.2-4019 of the Code of Virginia. The ~~district or local health~~ department director shall consider all evidence presented at the meeting that is relevant to the issue in controversy. Presentation of evidence, however, is entirely voluntary. ~~The district or local health department shall have no subpoena power.~~ No verbatim record need be taken at

the informal hearing. The ~~local or district health director department~~ shall review the facts presented and based on those facts render a decision. ~~A written copy of the decision and the basis for the decision shall be sent to the appellant within 15 work days of the hearing, unless the parties mutually agree to a later date in order to allow the department to evaluate additional evidence.~~ If the decision is adverse to the interests of the appellant, an aggrieved appellant may request an adjudicatory hearing pursuant to subdivision 2 of this section.

2. Adjudicatory hearing. The adjudicatory hearing is a formal, public adjudicatory proceeding conducted pursuant to § 2.2-4020 of the Code of Virginia.

The commissioner shall designate a hearing officer to conduct the hearing as provided in § 2.2-4024 of the Code of Virginia and to make written recommended findings of fact and conclusions of law ~~to be submitted for review and final decision by the commissioner.~~ The final decision of the commissioner shall be reduced to writing and will contain the explicit findings of fact upon which the decision is based. Certified copies of the decision shall be delivered to the owner affected by it. Notice of a decision will be served upon the parties and become a part of the record. Service may be by personal service or certified mail return receipt requested.

VA.R. Doc. No. R26-8311; Filed September 19, 2025; 3:14 p.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Virginia Workers' Compensation Commission is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 15 of the Code of Virginia, which exempts regulations adopted pursuant to § 65.2-605 of the Code of Virginia, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption. The commission will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16VAC30-110. Medical Fee Schedules Regulations (amending 16VAC30-110-10).

Statutory Authority: § 65.2-605 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: James J. Szablewicz, Chief Deputy Commissioner, Virginia Workers' Compensation Commission,

333 East Franklin Street, Richmond, VA 23219, telephone (804) 205-3097, fax (804) 823-6936, or email james.szablewicz@workcomp.virginia.gov.

Summary:

The amendments add the 2026 Medical Fee Schedules that will be applicable to medical services rendered in workers' compensation cases from January 1, 2026, through December 31, 2027.

16VAC30-110-10. Definitions.

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

"Commission" means the Virginia Workers' Compensation Commission.

"Community" means one of the six medical communities as defined in § 65.2-605 A of the Code of Virginia.

"Ground rules"

1. For medical services rendered during the period from January 1, 2018, through December 31, 2019, means the 2018 Medical Fee Schedule Ground Rules adopted by the commission on June 13, 2017, and revised on July 18, 2019, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/documents/2018-mfs-ground-rules>.

2. For medical services rendered during the period from January 1, 2020, through December 31, 2021, means the 2020 Medical Fee Schedule Ground Rules adopted by the commission on July 18, 2019, and revised on October 17, 2019, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/documents/2020-medical-fee-schedules-ground-rules>.

3. For medical services rendered during the period from January 1, 2022, through December 31, 2023, means the 2022 Medical Fee Schedule Ground Rules adopted by the commission on June 29, 2021, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/documents/2022-medical-fee-schedules-ground-rules>.

4. For medical services rendered during the period from January 1, 2024, through December 31, 2025, means the 2024 Medical Fee Schedule Ground Rules adopted by the commission on August 17, 2023, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/medical-fee-services/2024-medical-fee-schedules-ground-rules>.

5. For medical services rendered during the period from January 1, 2026, through December 31, 2028, means the 2026 Medical Fee Schedule Ground Rules adopted by the commission on June 17, 2025, incorporated by reference in

Regulations

this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/medical-fee-services/2026-medical-fee-schedules-ground-rules>.

"Medical services" means any medical, surgical or hospital service required to be provided to an injured person pursuant to Title 65.2 of the Code of Virginia, exclusive of a medical service provided in the treatment of a traumatic injury or serious burn as those terms are defined in § 65.2-605 A of the Code of Virginia.

"Virginia fee schedules"

1. For medical services rendered during the period from January 1, 2018, through December 31, 2019, means the 2018 Medical Fee Schedules adopted by the commission on June 13, 2017, and revised on November 14, 2017, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/content/2018-medical-fee-schedule>.

2. For medical services rendered during the period from January 1, 2020, through December 31, 2021, means the 2020 Medical Fee Schedules adopted by the commission on July 18, 2019, and revised on October 17, 2019, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/content/2020-virginia-medical-fee-schedules>.

3. For medical services rendered during the period from January 1, 2022, through December 31, 2023, means the 2022 Medical Fee Schedules adopted by the commission on June 29, 2021, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/content/2022-virginia-medical-fee-schedules>.

4. For medical services rendered during the period from January 1, 2024, through December 31, 2025, means the 2024 Medical Fee Schedules adopted by the commission on August 17, 2023, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/medical-fee-services/2024-medical-fee-schedules>.

5. For medical services rendered during the period from January 1, 2026, through December 31, 2027, means the 2026 Medical Fee Schedules adopted by the commission on June 17, 2025, incorporated by reference in this chapter and available on the commission's website at <https://www.workcomp.virginia.gov/medical-fee-services/2026-medical-fee-schedules>.

DOCUMENTS INCORPORATED BY REFERENCE
(16VAC30-110)

[Virginia Workers' Compensation 2018 Medical Fee Schedules Ground Rules](#), adopted June 13, 2017, revised July 18, 2019, Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2020 Medical Fee Schedules Ground Rules](#), adopted July 18, 2019, revised on October 17, 2019, Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2022 Medical Fee Schedules Ground Rules](#), adopted June 29, 2021, Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2024 Medical Fee Schedules Ground Rules](#), adopted August 17, 2023, Virginia Workers' Compensation Commission

[Virginia Workers' Compensation 2026 Medical Fee Schedules Ground Rules](#), adopted June 17, 2025, Virginia Workers' Compensation Commission

2018 Virginia Workers' Compensation Medical Fee Schedules, adopted June 13, 2017, revised November 14, 2017, Virginia Workers' Compensation Commission, <https://www.workcomp.virginia.gov/content/2018-medical-fee-schedule>

2020 Virginia Workers' Compensation Medical Fee Schedules adopted July 18, 2019, and revised October 17, 2019, Virginia Workers' Compensation Commission, <https://www.workcomp.virginia.gov/content/2020-virginia-medical-fee-schedules>

2022 Medical Fee Schedules adopted June 29, 2021, Virginia Workers' Compensation Commission, <https://www.workcomp.virginia.gov/content/2022-virginia-medical-fee-schedules>

2024 Medical Fee Schedules adopted August 17, 2023, Virginia Workers' Compensation Commission, <https://www.workcomp.virginia.gov/medical-fee-services/2024-medical-fee-schedules>

[2026 Medical Fee Schedules](#), adopted June 17, 2025, Virginia Workers' Compensation Commission

VA.R. Doc. No. R26-8462; Filed September 12, 2025, 2:33 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Final Regulation

Title of Regulation: **18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-10 through 18VAC41-20-40, 18VAC41-20-60, 18VAC41-20-80, 18VAC41-20-100 through 18VAC41-20-140, 18VAC41-20-160 through 18VAC41-20-280; adding 18VAC41-20-15; repealing 18VAC41-20-50, 18VAC41-20-70, 18VAC41-20-150).**

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

Effective Date: December 1, 2025.

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

Summary:

The amendments (i) remove and amend definitions; (ii) revise entry requirements for licenses and certificates, including reducing minimum training requirements for individuals seeking licensure, allowing individuals who received training outside of the United States to seek credit for coursework and reducing criminal history reporting requirements; (iii) update fee provisions; (iv) revise reinstatement provisions; (v) update requirements for schools, including curriculum requirements for barbering programs; and (vi) clarify standards of practice, including sanitation and safety standards for shops, salons, and schools.

Changes to the proposed regulation include (i) revising entry requirements for the licensure of individual professionals, certification of instructors, licensure of shops and salons, and licensure of schools to remove the requirement that applicants disclose misdemeanor criminal convictions when applying for licensure or certification; (ii) incorporating current board guidance that permits individuals who are licensed in another state with a similar scope of practice to a Virginia master barber to qualify for licensure by endorsement; (iii) reflecting recent fee adjustments for the renewal and reinstatement of instructor certifications; (iv) revising provisions for renewal of licenses and certificates to allow for a paperless licensing process; (v) revising requirements for licensure of schools and approval of school curricula to incorporate existing application requirements that are not currently in regulation; (vi) revising curriculum requirements for barbering training to be consistent with the current scope of practice for barbering as provided for in the Code of Virginia; and (vii) revising curriculum and performances requirements for cosmetology training to conform to statute.

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.

18VAC41-20-10. Definitions.

A. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. All terms defined ascribed to them in Chapter 7 (§ 54.1-700 [et seq.]) of Title 54.1 of the Code of Virginia are incorporated in this chapter.:

"Barber"

"Barbering"

"Barber instructor"

"Barbershop"

"Board"

"Cosmetologist"

"Cosmetology"

"Cosmetology instructor"

"Cosmetology salon"

"Master barber"

"Nail care"

"Nail salon"

"Nail school"

"Nail technician"

"Nail technician instructor"

"Physical (wax) depilatory"

"School of cosmetology"

"Wax technician"

"Waxing"

"Waxing salon"

"Waxing school"

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

"Apprenticeship program" means an approved cosmetology, barber, nail technician, or wax technician training program conducted by an approved registered apprenticeship sponsor.

"Barber school" means a place or establishment licensed by the board to accept and train students and that offers a barber, master barber, or dual barber/master barber curriculum approved by the board.

"Business entity" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

"Clock hour" means a minimum of 50 minutes of supervised or directed instruction and appropriate breaks.

"Credit hour" means a combination of the number of hours in class each week and the number of hours per week in a laboratory by which a school may measure coursework. One unit of credit equals one hour of classroom or online study, two hours of laboratory experience, or three hours of internship or practicum or a combination of the three times the number of weeks in the term.

Regulations

"Direct supervision" means that (i) a Virginia licensed barber, cosmetologist, nail technician, or wax technician shall be is present in the barbershop, cosmetology salon, nail salon, or waxing salon at all times when services are being performed by a temporary [permit license] holder or registered apprentice or (ii) a Virginia licensed and certified barber, cosmetologist, nail technician, or wax technician instructor or a student instructor temporary license holder is present in the barber, cosmetology, nail technician, or wax technician school at all times when services are being performed by a student, student instructor, or temporary license holder.

~~"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.~~

"Each and every location" means, for the purposes of schools with multiple suites or classrooms, a single location is one that is enclosed under one roof and all classrooms or suites are within 500 feet of the main office.

"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.

~~"Licensee" means any person, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law individual or firm holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia board.~~

"Post-secondary educational level" means an accredited college or university that is approved or accredited ~~by the Southern Association of Colleges and Schools Commission on Colleges or~~ by an accrediting agency that is recognized by the U.S. Secretary of Education.

~~"Reciprocity" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.~~

"Reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee is generally not substantially open to the public during the same hours, "reasonable hours" means the business hours when the licensee is open to the public.

"Reinstatement" means having a license or certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certificate for another period of time.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The managing partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company;

6. The officers or directors of an association ~~or both~~; and

7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

"Sole proprietor" means any individual, not a corporation, who is trading under ~~his~~ that individual's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent exam" means an examination administered by the licensing entity ~~which~~ that covers Virginia's scope of practice for that profession.

"Substantially equivalent training" means at least 80% of the required hours in Virginia and curriculum content covering Virginia's scope of practice for that profession.

~~"Virginia state institution" for the purposes of this chapter~~ means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

"Wet disinfection unit" is a container large enough to hold an Environmental Protection Agency (EPA) registered disinfectant that is a bactericidal, virucidal, and fungicidal solution in which the objects to be disinfected are completely immersed.

18VAC41-20-15. Gratuitous services.

~~[Any~~ As provided in subdivision 5 of § 54.1-701 of the Code of Virginia, any] individual who engages in barbering, master barbering, cosmetology, nail care, or waxing without receiving compensation, reward, or obligation is considered to be performing gratuitous services and is exempt from the provisions of this chapter. Gratuitous services do not include services provided at no charge when goods are purchased.

18VAC41-20-20. General requirements for a barber, master barber, cosmetologist, nail technician, or wax technician license.

A. Any individual wishing to engage in barbering, cosmetology, nail care, or waxing [~~shall~~ must] obtain a license in compliance with § 54.1-703 of the Code of Virginia and ~~shall~~ must meet the following qualifications:

1. The applicant ~~shall~~ must be in good standing as a licensed barber, master barber, cosmetologist, nail technician, or wax technician in Virginia and all other jurisdictions where licensed, ~~certified, or registered.~~ The applicant ~~shall disclose to the board at the time of application for licensure, must provide a copy of~~ any disciplinary action taken in Virginia and all other jurisdictions ~~in connection with the applicant's practice as a barber, master barber, cosmetologist, nail technician, or wax technician to the board at the time of application for licensure.~~ This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. ~~The applicant shall disclose to the~~

board at the time of application for licensure if he has been previously licensed in Virginia as a barber, master barber, cosmetologist, nail technician, or wax technician.

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant [~~wherein who~~] the board deems [~~the applicant is~~] unfit or unsuited to engage in barbering, cosmetology, nail care, or waxing. ~~The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.~~

2. The applicant ~~shall~~ must disclose the applicant's physical address. A post office box ~~is not acceptable~~ may be provided as a secondary address.

3. The applicant ~~shall~~ must sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia barber and cosmetology license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose [~~the following information regarding criminal convictions in Virginia and all other jurisdictions: a. All misdemeanor convictions involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury within two years of the date of the application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury; and b. All~~] felony convictions [~~in Virginia and all other jurisdictions~~] within ~~20~~ 10 years of the date of application.

~~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~~ must provide evidence satisfactory to the board that the applicant has passed the board-approved examination, administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. Training in the Commonwealth of Virginia. Any person completing ~~an~~ one of the following programs is eligible for examination:

a. An approved barber, master barber, cosmetology, nail technician, or wax technician training program in a Virginia licensed barber, cosmetology, nail technician, or wax technician school, respectively, or a

b. A Virginia public school's barber, master barber, cosmetology, nail technician, or wax technician program approved by the Virginia Department of Education shall be eligible for examination.

c. A registered apprenticeship.

d. Training as a barber, master barber, cosmetologist, nail technician, or wax technician in any Virginia state institution.

2. Training outside of the Commonwealth of Virginia, ~~but within the United States and its territories.~~

a. Any person completing a barber, master barber, cosmetology, nail care, or waxing training or apprenticeship program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the substantially equivalent training to be eligible for examination. Applicants who have earned a degree from an institution outside the United States must have their degree translated, authenticated, and evaluated by an education evaluation service if credit is sought for the education. The board in its discretion may decline to accept any evaluation submitted by an applicant.

b. Applicants who completed a training or apprenticeship program that is not substantially equivalent to Virginia's training, including out of country training, may substitute five must submit documentation acceptable to the board verifying three years of work experience for training. Applicants should provide their work history demonstrating five three years of experience as a licensed barber, master barber, cosmetologist, nail technician, or wax technician in any other state or jurisdiction of the United States on a form provided by the board.

3. Any barber, master barber, cosmetologist, nail technician, or wax technician applicant having a minimum of two years of experience in barbering, master barbering, cosmetology, nail care, or waxing in the United States Armed Forces and having provided documentation satisfactory to the board of that experience is eligible for the respective examination.

4. A Virginia licensed cosmetologist with a minimum of two years of work experience is eligible for the master barber examination; likewise, a Virginia licensed master barber with a minimum of two years of work experience is eligible for the cosmetology examination.

18VAC41-20-30. License by endorsement.

A. Upon proper application to the board, any person currently licensed to practice as a barber, master barber, cosmetologist, nail technician, or wax technician or who is a licensed instructor in the respective profession in any other state or jurisdiction of the United States and who has completed ~~both~~ a training or apprenticeship program and a written and [a] practical examination that is substantially equivalent to ~~that the training and~~ [examination examinations] required by this chapter, may be

Regulations

issued a barber, master barber, cosmetologist, nail technician, or wax technician license or the respective instructor certificate without an examination. The applicant must also meet the requirements set forth in 18VAC41-20-20 A and 18VAC41-20-100.

B. An applicant for licensure by endorsement who has completed an equivalent training or apprenticeship program and whose state only utilizes one licensing examination (written or practical) that is substantially equivalent to the examination required by this chapter may take the other examination (written or practical) in Virginia to qualify for licensure.

C. Applicants for licensure by endorsement who completed a training or apprenticeship program that is not substantially equivalent to Virginia's training but who otherwise meet all the requirements listed in subsection A of this section, may substitute ~~five~~ three years of work experience for training. Applicants ~~should~~ must provide ~~their~~ a work history demonstrating ~~five~~ three years of licensed experience in any other state or jurisdiction of the United States on a form provided by the board.

[D. An applicant licensed as a barber or master barber in another state with a similar scope of practice as a master barber in Virginia may be licensed as a master barber by endorsement.]

18VAC41-20-40. Apprenticeship training.

A. Licensed barbers, master barbers, cosmetologists, and nail technicians who train apprentices ~~shall must~~ comply with the standards for registered apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry and the Virginia Board for Barbers and Cosmetology. Owners of barbershops, cosmetology salons, and nail salons who train apprentices shall comply with the standards for apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry.

B. ~~Any person completing the Virginia apprenticeship program in barbering, master barbering Licensed barbershops, cosmetology, or salons, and nail care shall be eligible for examination salons where apprentices train must comply with the standards for registered apprenticeship training.~~

18VAC41-20-50. ~~Exceptions to training requirements. (Repealed.)~~

A. ~~Virginia licensed cosmetologists with a minimum of two years of work experience shall be eligible for the master barber examination; likewise, a Virginia licensed master barber with a minimum of two years of work experience shall be eligible for the cosmetology examination.~~

B. ~~Any barber, master barber, cosmetologist, nail technician, or wax technician applicant having been trained as a barber, master barber, cosmetologist, nail technician, or wax~~

~~technician in any Virginia state institution shall be eligible for the respective examination.~~

C. ~~Any barber, master barber, cosmetologist, nail technician, or wax technician applicant having a minimum of two years of experience in barbering, master barbering, cosmetology, nail care, or waxing in the United States armed forces and having provided documentation satisfactory to the board of that experience shall be eligible for the respective examination.~~

D. ~~Any licensed barber or barber student enrolling in a master barber training program in a licensed barber school shall be given educational credit for the training and performances completed in a barbering program at a licensed barber school.~~

18VAC41-20-60. Examination requirements and fees.

A. Applicants for initial licensure ~~shall must~~ pass [~~both a the~~] practical [examination] and a written [~~portion of the~~] examination approved by the board. ~~The examinations may be administered by the board or by a designated testing service.~~

B. Any applicant who passes [~~one part of either~~] the [practical or written] examination [~~shall will~~] not be required to take that [~~part examination~~] again, provided both [parts examinations] are passed within one year of the initial examination date.

C. ~~Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.~~

D. ~~C.~~ The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee ~~shall will~~ not exceed \$225 per candidate.

E. ~~D.~~ Any candidate failing to apply for initial licensure within five years of passing both a the practical ~~examination~~ and a written [~~portions of an examination examinations~~] shall will be required to retake both [portions examinations]. ~~Records of examinations shall be maintained for a maximum of five years.~~

E. Any applicant who does not pass a reexamination within one year of the initial examination date will be required to submit a new application.

18VAC41-20-70. ~~Reexamination requirements. (Repealed.)~~

~~Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.~~

18VAC41-20-80. Examination administration.

A. The examinations ~~shall must~~ be administered by the board or the designated testing service. The practical examination ~~shall must~~ be supervised by a chief examiner.

B. Every barber, master barber, [~~cosmetology cosmetologist~~], nail technician, or wax technician examiner ~~shall~~ must hold a current Virginia license in ~~his~~ the respective profession, have three or more years of active experience as a licensed professional, and be currently practicing in that profession. ~~Examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.~~

C. No certified barber, master barber, cosmetology, nail technician, or wax technician instructor who is (i) currently teaching ~~or is~~, (ii) a school owner, or is (iii) an apprentice sponsor ~~shall~~ may be an examiner.

D. Each barber, master barber, cosmetology, nail technician, and wax technician chief examiner ~~shall~~ must (i) hold a current Virginia license in ~~his~~ the respective profession, (ii) have ~~five~~ three or more years of active experience in that profession, (iii) have ~~three years~~ one year of active experience as an examiner, and (iv) be currently practicing in ~~his~~ the respective profession. ~~Chief examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board~~ A licensed cosmetologist may serve as an examiner for any license type that is included in the cosmetology profession.

E. The applicant ~~shall~~ must follow all procedures established by the board with regard to conduct at [~~the~~ an] examination. Such procedures ~~shall~~ include written instructions communicated prior to the examination date and instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

F. Examiners and chief examiners must attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

18VAC41-20-100. General requirements for a barber an instructor certificate, ~~cosmetology instructor certificate, nail technician instructor certificate, or wax technician instructor certificate.~~

A. Any individual wishing to engage in ~~barbering instruction, in barbering, master barbering instruction, cosmetology instruction, nail care instruction, or waxing instruction~~ shall must meet the following qualifications:

1. The applicant ~~shall~~ must be in good standing as a licensed barber, master barber, cosmetologist, nail technician, or wax technician, and instructor, respectively, in ~~Virginia and all other jurisdictions~~ every jurisdiction where licensed, certified, or registered. The applicant ~~shall disclose to the board at the time of application for licensure~~ must provide a copy to the board of any disciplinary action taken in Virginia and all other jurisdictions ~~in connection with the applicant's practice at the time of application for certification since being previously licensed~~ as a barber, master barber,

cosmetologist, nail technician, or wax technician, ~~or in the practice of teaching any of those professions~~. This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license or certification in connection with a disciplinary action, or voluntary termination of a license or certification. ~~The applicant shall disclose to the board at the time of application for licensure if the applicant has been previously licensed in Virginia as a barber instructor, master barber instructor, cosmetology instructor, nail technician instructor, or wax technician instructor.~~

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny ~~licensure~~ certification to any applicant ~~wherein that~~ that the board deems the applicant is unfit or unsuited to engage in the instruction of barbering, cosmetology, nail care, or waxing. ~~The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action;~~

2. The applicant ~~shall~~ must hold and maintain a current Virginia barber, master barber, cosmetology, nail technician, or wax technician license, respectively;

3. The applicant ~~shall~~ must complete one of the following qualifications:

- a. Pass a course in teaching techniques at the post-secondary educational level;
- ~~b. Complete an instructor training course approved by the Virginia Board for Barbers and Cosmetology under the supervision of a certified barber, master barber, cosmetologist, nail technician, or wax technician instructor in a barber, cosmetology, nail technician, or wax technician school, respectively; or~~
- ~~c. b. Pass an instructor examination in barber, master barber, cosmetology, nail technician, or wax technician instruction respectively, administered by the board or by a testing service acting on behalf of the board; and~~

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose [~~the following information regarding criminal convictions in Virginia and all other jurisdictions since being previously licensed as a barber, master barber, cosmetologist, wax technician and nail technician: a. All misdemeanor convictions within two years of the date of application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury~~] within two years of the date of the application [; and b. All all] felony convictions [in Virginia and all other jurisdictions since being previously licensed as a barber, master barber,

Regulations

cosmetologist, wax technician, or nail technician] within 20 10 years of the date of application.

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 certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

B. Instructors shall be required to maintain a barber, master barber, cosmetology, nail technician, or wax technician license, respectively. Certified instructors may teach in any profession in which they hold the underlying license.

18VAC41-20-110. Student instructor temporary permit license.

A. A licensed barber, master barber, cosmetologist, nail technician, or wax technician may be granted a 12-month student instructor temporary permit license to function under the direct supervision of a barber instructor, master barber instructor, cosmetology instructor, nail technician instructor, or wax technician instructor respectively. certified instructor in a licensed school. A licensed nail technician or wax technician may also be granted a student instructor permit to function under the direct supervision of a cosmetology instructor. No subsequent student instructor temporary license will be issued. Student instructors must pass an instructor examination administered by the board or by a testing service acting on behalf of the board.

B. The student instructor temporary permit shall remain in force for not more than 12 months after the date of issuance and shall be nontransferable and nonrenewable. Student instructors may teach in any profession in which they hold the underlying license. Failure to maintain a barber, master barber, cosmetology, nail technician, or wax technician license will disqualify an individual from holding a student instructor temporary license.

C. No applicant for examination shall be issued more than one Licensed cosmetologists may also supervise nail and waxing student instructor temporary permit license holders. Licensed estheticians and master estheticians may also supervise waxing student instructor temporary license holders. Licensed master barbers may also supervise barber student instructor temporary license holders.

D. Failure to maintain a barber, master barber, cosmetology, nail technician, or wax technician license shall disqualify an individual from holding a The student instructor temporary permit license holder must be associated with both a school and a direct supervisor.

E. Temporary permits shall licenses may not be issued where grounds may exist to deny a license pursuant to § 54.1-204 of the Code of Virginia or 18VAC41-20-100.

18VAC41-20-120. General requirements for a shop or salon license.

A. Any firm wishing to operate a barbershop, cosmetology salon, nail salon, or waxing salon shall, including any mobile shop or salon, must obtain a shop or salon license in compliance with § 54.1-704.1 of the Code of Virginia and shall must meet the following qualifications in order to receive a license:

1. The applicant and all members of the responsible management shall must be in good standing as a licensed shop or salon in Virginia and all other jurisdictions where licensed, certified, or registered. The applicant and all members of the responsible management shall disclose to the board at the time of application for licensure must provide a copy of any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's operation of any barbershop, cosmetology salon, nail salon, or waxing salon or practice of the profession to the board at the time of application for licensure. This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure if the applicant or any member of the responsible management has been previously licensed in Virginia as a barbershop, cosmetology salon, nail salon, or waxing salon.

Upon review of the applicant's and all members of the responsible management's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant [wherein it that the board] deems [the applicant is] unfit or unsuited to engage in the operation of a barbershop, cosmetology salon, nail salon, or waxing salon. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. The applicant shall must disclose the applicant's physical address. A post office box is not acceptable may be provided as secondary address. Mobile shops and salons must provide a physical address where the shop or salon is permanently garaged.

3. The applicant shall must sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia barber and cosmetology license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall must disclose [the following

~~information about the firm and all members of the responsible management regarding criminal convictions in Virginia and all other jurisdictions: a. All misdemeanor convictions within two years of the date of application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury] within two years of the date of the application [; and b. All all] felony convictions [in Virginia and all other jurisdictions for the firm and all members of the firm's responsible management] within 20 10 years of the date of application.~~

~~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~~ must disclose the firm's responsible management.

B. Shop or salon licenses are issued to firms as defined in this chapter and ~~shall [will are] not [be] transferable and shall bear the same name and address of the business.~~ Any changes in the name or address of the shop or salon ~~shall must~~ be reported to the board in writing within 30 days of such changes. The board ~~shall will~~ not be responsible for the licensee's, ~~certificate holder's, or permit holder's~~ failure to receive notices, communications, and correspondence caused by the licensee's, ~~certificate holder's, or permit holder's~~ failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board.

C. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void ~~and shall be returned to the board within 30 days of the change. Additionally, the~~ The firm shall must notify the board, apply for a new license, within 30 days of the change in the business entity, and destroy the license. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

D. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association ~~shall must~~ be reported to the board in writing within 30 days of the change.

E. The board or any of its agents ~~shall~~ must be allowed to inspect during reasonable hours any licensed shop or salon for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.)

of Title 54.1 of the Code of Virginia or this chapter. ~~For purposes of a board inspection, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public.~~

18VAC41-20-130. General requirements for a school license.

A. Any firm wishing to operate a barber, cosmetology, nail technician, or wax technician school ~~shall~~ must submit an application to the board at least 60 days prior to the date for which approval is sought, obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia, and meet the following qualifications in order to receive a license:

1. The applicant and all members of the responsible management ~~shall must~~ be in good standing as a licensed school in Virginia and ~~all any~~ other jurisdiction where licensed, ~~certified, or registered.~~ The applicant and all members of the responsible management ~~shall disclose to the board at the time of application for licensure must provide a copy of any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's operation of any barbering, cosmetology, nail, or waxing school or practice of the profession to the board at the time of application for licensure.~~ This includes [~~to~~] monetary penalties, fines, probation, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. ~~The applicant shall disclose to the board at the time of application for licensure if the applicant or any member of the responsible management has been previously licensed in Virginia as a barbering, cosmetology, nail, or waxing school.~~

Upon review of the applicant's and all members of the responsible management's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant ~~wherein that~~ the board deems the applicant is unfit or unsuited to engage in the operation of a barbering, cosmetology, nail, or waxing school. ~~The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.~~

2. The applicant ~~shall~~ must disclose the applicant's physical address. A post office box ~~is not acceptable~~ may be provided as secondary address.

3. The applicant ~~shall~~ must sign, as part of the application, a statement certifying that the applicant has read and

Regulations

understands the Virginia barber and cosmetology license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall must~~ disclose [~~the following information about the firm and all members of the responsible management regarding criminal convictions in Virginia and all other jurisdictions: a. All misdemeanor convictions within two years of the date of the application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury~~] within two years of the date of the application [; and b. All ~~all~~] felony convictions [in Virginia and all other jurisdictions for the firm and all members of the firm's responsible management] within 20 10 years of the date of application.

~~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 must~~ disclose the firm's responsible management.

B. Barber, cosmetology, nail technician, and wax technician school licenses are issued to firms as defined in this chapter; ~~shall and are not be transferable, and shall bear the same name and address as the school.~~ Any changes in the name or the ~~and~~ address of record or principal place of business of the school ~~shall must~~ be reported to the board in writing within 30 days of such change. The board ~~shall will~~ not be responsible for the licensee's, ~~certificate holder's, or permit holder's~~ failure to receive notices, communications, and correspondence caused by the licensee's, ~~certificate holder's, or permit holder's~~ failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void ~~and shall be returned to the board within 30 days of the change. Additionally, the~~ The firm shall must notify the board, apply for a new license within 30 days of the change in business entity, and destroy the license. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other

business entity recognized under the laws of the Commonwealth of Virginia.

D. Within 30 days of ceasing to operate, whether through dissolution or alteration of the business entity, the school must provide a written report to the board detailing the performances and hours of each student who has not completed the program.

E. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association ~~shall must~~ be reported to the board in writing within 30 days of the change.

~~E. F.~~ Barber schools, cosmetology schools, nail schools, or waxing schools under the Virginia Department of Education ~~shall be exempted~~ are exempt from licensure requirements.

F. G. The board or any of its agents [~~shall must~~] be allowed to inspect during reasonable hours any licensed school for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or this chapter. ~~For purposes of a board inspection, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public.~~

18VAC41-20-140. Fees.

The following fees apply: All fees are nonrefundable and will not be prorated.

FEE TYPE	AMOUNT DUE	WHEN DUE
Individuals:		
Application	\$120	With application
License by Endorsement	\$120	With application
Renewal:		
Barber	\$120	With renewal card prior to expiration date
Master Barber	\$120	With renewal card prior to expiration date
Cosmetologist	\$120	With renewal card prior to expiration date
Nail Technician	\$120	With renewal card prior to expiration date

Wax Technician	\$120	With renewal card prior to expiration date
Reinstatement	\$240**includes \$120 renewal fee and \$120 reinstatement fee	With reinstatement application
Instructors <u>Instructor Certificate:</u>		
Application	\$140	With application
License by Endorsement	\$140	With application
Renewal	\$165 [\$20 \$45]	With renewal card prior to expiration date
Reinstatement	\$330* [\$40* \$90*] *includes \$165 [\$20 \$45] renewal fee and \$165 [\$20 \$45] reinstatement fee	With reinstatement application
Facilities:		
Application	\$220	With application
Renewal	\$220	With renewal card prior to expiration date
Reinstatement	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application
Schools:		
Application	\$250	With application
Add Program	\$120	With application
Renewal	\$250	With renewal card prior to expiration date
Reinstatement	\$500* *includes \$250 renewal fee and \$250 reinstatement fee	With reinstatement application

18VAC41-20-150. Refunds. (Repealed.)

~~All fees are nonrefundable and shall not be prorated.~~

18VAC41-20-160. License renewal Renewal required.

A license or certificate issued under this chapter ~~shall expire~~ expires two years from the last day of the month in which it was issued.

18VAC41-20-170. Notice of renewal.

The Department of Professional and Occupational Regulation will [~~mail send~~] a renewal notice to the licensee or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, ~~shall~~ does not relieve the licensee or certificate holder of the obligation to renew. [~~If the licensee or certificate holder fails to receive the renewal notice, a copy of the old license or certificate may be submitted as evidence of intent to renew, along with the required fee.~~]

18VAC41-20-180. Failure to renew.

A. When ~~a licensed or certified~~ an individual or business entity fails to renew [~~its a~~] license or certificate within 30 days following ~~its the~~ expiration date, the licensee or certificate holder ~~shall apply for reinstatement of the license or certificate by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and~~ [who intends to remain licensed or certified] must pay the reinstatement fee.

B. When ~~a licensed or certified~~ an individual or business entity fails to renew [~~its a~~] license or certification within two years following the expiration date, reinstatement is no longer possible. To resume practice:

1. The former licensee or certificate holder ~~shall~~ must apply for licensure or certification as a new applicant and ~~shall~~ must meet all current entry requirements for each respective license or certificate.

2. An individual ~~initially granted licensure under any of the following examination or training waiver provisions, known as grandfathering, shall submit a new application showing the individual met the requirements of the applicable examination or training waiver provision, demonstrate five previously licensed in Virginia for a minimum of three years of licensed experience, and pass the required examination:~~
a. ~~Any person who was exempted from examination for licensure as a barber, as such person was engaged in the practice of barbering on or before July 1, 1966, in any establishment or place of business within which the practice of barbering was carried on by only one barber, and such person filed an application with the board on or before January 1, 1967 must submit a new application and pass the required examination.~~

b. ~~Any person exempted from examination as a registered professional hair dresser, as such person was substantially engaged as a hairdresser in Virginia for at least nine~~

Regulations

~~months prior to June 29, 1962, and such person filed an application satisfactory to the board on or before July 1, 1963.~~

~~c. Any person exempted from training requirements for licensure as a nail technician, as such person had experience or training as a nail technician, and such person applied to the board for examination by October 1, 1991.~~

~~d. Any person exempted from examination as a wax technician pursuant to § 54.1-703.1 of the Code of Virginia.~~

C. The application for When a licensed school fails to renew its license within 30 days following the expiration date, the licensee must pay the reinstatement fee.

1. After 180 days, the school must submit a reinstatement for a school shall application and provide (i) the reasons for failing to renew prior to the expiration date and (ii) a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18VAC41-20-240 and 18VAC41-20-250 by the Department of Professional and Occupational Regulation. Pursuant to 18VAC41-20-130, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both.

2. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student [shall will] be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

D. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license or certificate is applicable.

E. When a license or certificate is reinstated, the licensee or certificate holder ~~shall will~~ be assigned an expiration date two years from the date of the last day of the month of reinstatement.

F. A licensee or certificate holder that reinstates [its a] license or certificate ~~shall will~~ be regarded as having been continuously licensed or certified without interruption.

Therefore, a licensee or certificate holder ~~shall will~~ be subject to the authority of the board for activities performed prior to reinstatement.

G. A licensee or certificate holder that fails to reinstate [its a] license or certificate ~~shall will~~ be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in this chapter ~~shall divest divests~~ the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the individual was licensed or certified.

18VAC41-20-200. General requirements.

[A.] A barber, cosmetology, nail, or waxing school ~~shall must~~:

1. Hold a school license for each and every location. Any suites or classrooms that are located in a different building or are further than 500 feet from the main office are considered a separate location, and require the school hold an additional license.

2. Hold a salon or shop license if the school receives compensation for services provided in its clinic.

3. Employ ~~a staff of~~ and ensure all training is conducted by under the direct supervision of a licensed and certified barber, master barber, cosmetology, nail technician, or wax technician instructors instructor, respectively. [A list of all certified instructors must be provided with the application for licensure.]

a. Licensed and certified cosmetology instructors may also instruct in nail and waxing programs.

b. Licensed and certified esthetics instructors and master esthetics instructors may also instruct in waxing programs.

~~c. [Licensed and certified barber and master barber instructors may instruct straight razor shaving on face and neck in a cosmetology school.~~

d.] Any change in instructors must be reported to the board within 30 days of the change.

4. Develop individuals for ~~entry-level~~ entry-level competency in barbering, master barbering, cosmetology, nail care, or waxing.

5. Submit its curricula for board approval. All changes to curricula must be resubmitted and approved by the board. [The theory portions of the curriculum may be offered online. Practical instruction must be obtained in a traditional brick and mortar classroom setting. Schools must utilize technologies and practices that are effective in verifying the identity of distance learning students who participate in class or coursework (e.g., a secure login and passcode) while protecting student privacy. Educational technologies must be capable of monitoring a student's time and activities. The school must utilize a measure of competency (e.g., an examination) of the information the student is taught online.

~~which must be completed in a traditional brick-and-mortar classroom.]~~

- a. Barber curricula ~~shall~~ must be based on a minimum of ~~1,100~~ 750 clock hours and ~~shall~~ must include performances in accordance with 18VAC41-20-220 [A].
- b. Master barber curricula ~~shall~~ must be based on a minimum of ~~400~~ 250 clock hours and ~~shall~~ must include performances in accordance with 18VAC41-20-220 [B].
- c. Dual barber/master barber program curricula ~~shall~~ must be based on a minimum of ~~1,500~~ 1,000 clock hours and ~~shall~~ must include performances in accordance with 18VAC41-20-220 [C].
- d. Cosmetology curricula ~~shall~~ must be based on a minimum of 1,000 clock hours and ~~shall~~ must include performances in accordance with 18VAC41-20-220 [D].
- e. Nail technician curricula ~~shall~~ must be based on a minimum of 150 clock hours and ~~shall~~ must include performances in accordance with 18VAC41-20-220 [E].
- f. Wax technician curricula ~~shall~~ must be based on a minimum of 115 clock hours and ~~shall~~ must include performances in accordance with 18VAC41-20-220 [F].

6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the shop or salon in plain view of the public.

7. Conduct classroom instruction in an area separate from the clinic area where practical instruction is conducted and services are provided. [A sketch of the school floor plan must be included in the application for licensure.]

~~8. Possess the necessary equipment and implements to teach the respective curriculum. If any such equipment or implement is not owned by the school, then a copy of all agreements associated with the use of such property by the school shall be provided to the board.~~

[B. The theory portions of the curriculum may be offered online. Practical instruction must be obtained in a traditional brick-and-mortar classroom setting. Theory and practical training must be conducted in the same building, unless the school has board approval to offer the theory training online. Schools must utilize technologies and practices that are effective in verifying the identity of distance-learning students who participate in class or coursework (e.g., a secure login and passcode) while protecting student privacy. Educational technologies must be capable of monitoring a student's time and activities. The school must utilize a measure of competency (e.g., an examination) of the information the student is taught online, which must be completed in a traditional brick-and-mortar classroom.]

18VAC41-20-210. Curriculum requirements.

A. Each barber, cosmetology, nail, and waxing school ~~shall~~ must submit with its application a curriculum, including a

course syllabus, a detailed course content outline, [a copy of any course text.] a sample of five lesson plans, a sample of evaluation methods to be used, days and hours of instruction, program length, a sample of a final transcript, [and] a breakdown of hours and performances for all courses to be taught that will lead to licensure [, and a sample test of at least 25 questions that will be administered to students, including answer key].

B. The outline for barbering [~~shall~~ must] include the following:

1. Orientation and business topics - minimum of 25 hours of instruction:

- a. School policies;
- b. Business and shop management; and
- c. Professional ethics and personal hygiene.

2. State law; ~~and~~ regulations; ~~and~~ professional ethics; - minimum of 10 hours of instruction.

3. ~~Business and shop management;~~ 4. Shampooing, cutting, thinning, tapering the hair with razor, clippers, and shears - minimum of 270 hours of instruction:

- a. Client consultation; 5. Personal hygiene; 6. Cutting the hair with a razor, clippers, and shears; 7. Tapering the hair; 8. Thinning the hair; 9. Shampooing the hair; 10. ~~and~~
- b. Styling hair with a hand hair dryer.

4. Shaving; ~~11. Trimming and trimming~~ a moustache or beard; ~~12. - minimum of 100 hours of instruction, to include client consultation.~~

5. Applying hair color; ~~13. - minimum of 50 hours of instruction, to include client consultation.~~

6. Applied sciences - minimum of 100 hours of instruction:

- a. Anatomy and physiology;
- b. Skin structure and function;
- c. Skin types;
- d. Skin conditions;
- e. Diseases and disorders of the skin;
- f. Analyzing skin or scalp conditions; ~~and~~
14. g. Giving scalp treatments;

15. Giving basic facial massage or treatment;

16. Sanitizing and maintaining implements and equipment; ~~and~~

17. Honing and stropping a razor.

B. Each 7. General sciences - minimum of 80 hours of instruction:

- a. Bacteriology;
- b. Microorganisms;

Regulations

c. Infection control, sanitation, disinfection, and sterilization;

d. Occupational Safety and Health Administration (OSHA) requirements;

e. Safety Data Sheet (SDS);

f. General procedures and safety measures;

g. Cosmetic chemistry; and

h. Products and ingredients.

8. Facial hair and skin care services - minimum of 100 hours of instruction:

a. Client skin analysis and consultation;

b. Effleurage and related movements and manipulations of the face [~~and body~~];

c. Cleansing procedures;

d. Masks;

e. Extraction techniques;

f. Machines, equipment, and electricity;

g. Manual facials and treatments; [and]

h. [~~Machine, electrical facials, and treatments; and~~

i] General procedures and safety measures.

9. Understanding and maintaining implements and equipment (e.g., tools) - minimum of 15 hours of instruction.

~~C. The outline for a barber school seeking to add~~ adding a master barber program shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for master barbering shall must include the following:

1. Styling the hair with a hand hair dryer; 2. Thermal waving - minimum of 20 hours of instruction;

3. ~~2. Permanent waving with chemicals; 4. Relaxing and relaxing the hair with chemicals~~ - minimum of 110 hours of instruction;

5. ~~3. Lightening or toning the hair~~ - minimum of 100 hours of instruction;

6. ~~4. Hairpieces and wigs~~ - minimum of 15 hours of instruction; and

7. ~~5. Waxing limited to the scalp~~ - minimum of five hours of instruction.

~~C. Each school seeking to add a dual barber/master barber program shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. D. The outline~~

for a barber school adding a dual barber/master barber program shall must include the following:

1. Orientation and business topics - minimum of 25 hours of instruction:

a. School policies;

2. ~~State law, regulations, and professional ethics;~~

3. ~~b. Business and shop management; 4. Client consultation; 5. Personal hygiene; 6. Cutting; and~~

c. Professional ethics and personal hygiene.

2. State law and regulations - minimum of 10 hours of instruction.

3. Shampooing, cutting, thinning, tapering the hair with a razor, clippers, and shears; 7. Tapering the hair; 8. Thinning the hair; 9. Shampooing the hair; 10. - minimum of 270 hours of instruction:

a. Client consultation; and

b. Styling the hair with a hand hair dryer;

11. Thermal waving;

12. Permanent waving with chemicals;

13. Relaxing the hair;

14. ~~4. Shaving; 15. Trimming and trimming a moustache or beard; 16. - minimum of 100 hours of instruction, to include client consultation.~~

5. Applying hair color; 17. Lightening or toning the hair; 18. - minimum of 50 hours of instruction, to include client consultation.

6. Applied sciences - minimum of 100 hours of instruction:

a. Anatomy and physiology;

b. Skin structure and function;

c. Skin types;

d. Skin conditions;

e. Diseases and disorders of the skin;

f. Analyzing skin or scalp conditions; 19. and

g. Giving scalp treatments;

20. ~~7. General sciences~~ - minimum of 80 hours of instruction:

a. Bacteriology;

b. Microorganisms;

c. Infection control, sanitation, disinfection, and sterilization;

d. Occupational Safety and Health Administration (OSHA) requirements;

e. Safety Data Sheet (SDS);

f. General procedures and safety measures;

g. Cosmetic chemistry; and

h. Products and ingredients.

8. Facial hair and skin care services - minimum of 100 hours of instruction:

- a. Client skin analysis and consultation;
- b. Effleurage and related movements and manipulations of the face [~~and body~~];
- c. Cleansing procedures;
- d. Masks;
- e. Extraction techniques;
- f. Machines, equipment, and electricity;
- g. Manual facials and treatments; [and]
- h. [~~Machine, electrical facials, and treatments; and~~
- ~~h.] General procedures and safety measures.~~

9. Understanding and maintaining implements and equipment (e.g., tools) - minimum of 15 hours of instruction.

10. Thermal waving - minimum of 20 hours of instruction.

11. Permanent waving and relaxing the hair with chemicals - minimum of 110 hours of instruction.

12. Lightening or toning the hair - minimum of 100 hours of instruction.

13. Hairpieces and wigs - minimum of 15 hours of instruction.

14. Waxing limited to the scalp; ~~21. Giving basic facial massage or treatment; 22. Hair pieces; 23. Sanitizing and maintaining implements and equipment; and 24. Honing and stropping a razor.~~ D. Each cosmetology school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure - minimum of five hours of instruction.

E. The outline for cosmetology shall must include the following:

- 1. Orientation and business topics - minimum of 45 hours of instruction:
 - a. School policies;
 - b. Management;
 - c. Sales, inventory, and retailing;
 - d. Taxes and payroll;
 - e. Insurance;
 - f. Client records and confidentiality; and
 - g. Professional ethics and practices.
- 2. Laws and regulations - minimum of 10 hours of instruction.
- 3. General sciences - minimum of 55 hours of instruction:

- a. Principles and practices of infection control;
- b. Safety Data Sheet (SDS); and
- c. Chemical usage and safety.

4. Applied sciences - minimum of 40 hours of instruction: ~~Anatomy~~, to include anatomy, physiology, and histology.

5. Shampooing, rinsing, and scalp treatments for all hair types, including textured hair - minimum of 25 hours of instruction:

- a. Client consultation and analysis; and
- b. Procedures, manipulations, and treatments.

6. Hair styling for all hair types, including textured hair - minimum of 65 hours of instruction:

- a. Fingerwaving, molding, and pin curling;
- b. Roller curling, combing, and brushing; and
- c. Heat curling, waving, and pressing.

7. Hair cutting for all hair types, including textured hair - minimum of 125 hours of instruction:

- a. Fundamentals, materials, and equipment; and
- b. Procedures.

8. Permanent waving and chemical relaxing for all hair types, including textured hair - minimum of [~~115~~ 135] hours of instruction:

- a. Chemistry;
- b. Supplies and equipment; and
- c. Procedures and practical application.

9. Hair coloring and bleaching for all hair types, including textured hair - minimum of [~~160~~ 190] hours of instruction:

- a. Basic color theory;
- b. Supplies and equipment; and
- c. Procedures and practical application.

10. Wigs, hair pieces, and related theory - minimum of 15 hours of instruction:

- a. Types; and
- b. Procedures.

11. [~~Straight razor use and shaving - minimum of 20 hours of instruction.~~

~~12.]~~ Manicuring and pedicuring - minimum of 75 hours of instruction:

- a. Nail theory, nail structure, and composition;
- b. Nail procedures, including manicuring, pedicuring, and nail extensions; and
- c. Electric filing.

[~~13. 12.]~~ Skin care - minimum of [~~160~~ 150] hours of instruction:

- a. Client skin analysis and consultation;

Regulations

- b. Effleurage and related movements and manipulations of the face [~~and body~~];
- c. Cleansing procedures;
- d. Masks;
- e. Extraction techniques;
- f. Machines [~~, equipment, and electricity~~ avoiding direct contact with the skin];
- g. [~~Manual facials and treatments~~ Equipment avoiding direct contact with the skin];
- h. [~~Machine, electrical facials, and treatments; and Electricity~~ avoiding direct contact with the skin;]
- i. [Manual facials and treatments; and
- j.] General procedures and safety measures.

[~~14. Makeup~~ 13. Lashes and brows] - minimum of 35 hours of instruction:

- a. Setup, supplies, and implements;
- b. [~~Color theory;~~
- e.] Consultation;
- [~~d. General and special occasion application;~~
- e. Camouflage;
- f. c.] Application of false lashes and lash extensions;
- [~~g. d.~~] Lash and brow tinting;
- [~~h. e.~~] Lash perming;
- [~~i. f.~~] Lightening of the hair on the body except scalp; and
- [~~j. g.~~] General procedures and safety measures.

[~~15. Body and other treatments~~ - minimum of 20 hours of instruction:

- a. ~~Body treatments;~~
- b. ~~Aromatherapy; and~~
- e. ~~General procedures and safety measures.~~

~~16. 14.~~] Hair removal - minimum of 35 hours of instruction:

- a. Client consultation and analysis;
- b. Waxing;
- c. Mechanical hair removal;
- d. Tweezing and threading; and
- e. Chemical hair removal.

~~E. Each nail school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. F. The outline for nail care shall~~ must include the following:

- 1. Orientation - minimum of five hours of instruction:
 - a. School policies; and
 - b. State law, regulations, and professional ethics;

2. Sterilization, sanitation, bacteriology, and safety; - minimum of 35 hours of instruction.

3. Anatomy and physiology; - minimum of 15 hours of instruction.

4. Diseases and disorders of the nail; - minimum of 10 hours of instruction.

5. Nail procedures (i.e., manicuring, pedicuring, and nail extensions); ~~and~~ - minimum of 75 hours of instruction.

6. Nail theory and nail structure and composition - minimum of 10 hours of instruction.

~~F. Each waxing school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. G. The outline for waxing shall~~ must include the following:

1. Orientation - minimum of 10 hours of instruction:

- a. School policies;
- b. State law, regulations, and professional ethics; ~~and~~
- c. Personal hygiene;
- d. Salon management; and
- e. Care of equipment.

2. Skin care theory, structure, composition, and treatment - minimum of 30 hours of instruction:

- a. Analysis;
- b. Anatomy and physiology;
- c. Diseases and disorders of the skin;
- d. Health sterilization, sanitation, bacteriology, and safety, including infectious disease control measures; and
- e. Temporary removal of hair.

~~3. Skin theory, skin structure, and composition.~~

~~4. 3.~~ Client consultation - minimum of 10 hours of instruction:

- a. Health conditions;
- b. Skin analysis;
- c. Treatments;
- d. Client expectations; and
- e. Health forms and questionnaires.

~~5. 4.~~ Waxing procedures for brow, lip, facial, legs, arms, underarm, chest, back, and bikini areas - minimum of 35 hours of instruction:

- a. Fundamentals;
- b. Safety rules; and
- c. Procedures.

~~6.~~ 5. Wax treatments - minimum of 30 hours of instruction:

- a. Analysis;
- b. Disorders and diseases;
- c. Manipulations; and
- d. Treatments.

~~7.~~ Salon management:

- a. ~~Business ethics;~~ and
- b. ~~Care of equipment.~~

~~G.~~ H. A licensed school with an approved barber, master barber, dual barber/master barber, cosmetology, nail technician, or wax technician program may conduct an assessment of a transfer student's competence in the respective profession and, based on the assessment, give credit toward the hours requirements specified in the respective subsection of this section and 18VAC41-20-220.

The school ~~shall~~ must make the assessment based on a review of the student's transcript, documentation of hours and performances provided to the student by the school from where the student is transferring, and the successful completion of a ~~board-approved~~ competency examination administered by the school. The school may also request a copy of a catalog or bulletin giving the full course description when making the evaluation. The number of credit hours awarded ~~shall~~ must not exceed the actual hours of instruction verified on the transcript or the number of hours specified in the board-approved curriculum for a specific topic.

18VAC41-20-220. Hours of instruction and performances
Practical performance requirements.

~~A.~~ Curriculum and performance requirements shall be offered over a minimum of 1,100 clock hours for barbering, 400 clock hours for master barbering, 1,500 clock hours for dual barber/master barber program, 1,000 hours for cosmetology, 150 clock hours for nail care, and 115 clock hours for waxing.

~~B.~~ A. The curriculum requirements for barbering must include the following minimum performances:

Hair and scalp treatments	10
<u>Straight razor shaving on face and neck</u>	<u>12</u>
Hair services	320 <u>285</u>
Hair coloring (including tinting, temporary rinses, and semi-permanent color)	35 <u>20</u>
Basic facials	5
TOTAL	370 <u>332</u>

~~C.~~ B. The curriculum requirements for master barbering must include the following minimum performances:

Bleaching and frosting	40 <u>20</u>
Cold permanent waving or chemical relaxing	25 <u>30</u>
Hair shaping	50
Wig care, styling, placing on model	5 <u>15</u>
Finger waving and thermal waving	30
<u>Waxing limited to the scalp</u>	<u>5</u>
TOTAL	120 <u>100</u>

~~D.~~ C. The curriculum requirements for dual barber/master barber program must include the following minimum performances:

Hair and scalp treatments	10
Hair styling services	320 <u>285</u>
<u>Straight razor shaving on face and neck</u>	<u>12</u>
Bleaching and frosting	40 <u>20</u>
Hair coloring (including tinting, temporary rinses, and semi-permanent color)	35 <u>20</u>
Cold permanent waving or chemical relaxing	25 <u>30</u>
Hair shaping	50
Wig care, styling, placing on model	5 <u>15</u>
Finger waving and thermal waving	30
Basic facials and waxings	5
<u>Waxing limited to the scalp</u>	<u>5</u>
TOTAL	490 <u>432</u>

~~E.~~ D. The curriculum requirements for cosmetology must include the following minimum performances:

Shampooing, rinsing, and scalp treatments, for all hair types, including textured hair	20
Hair styling, for all hair types, including textured hair	60
Hair cutting, for all hair types, including textured hair	60
Permanent waving-chemical relaxing, for all hair types, including textured hair	60
Hair coloring and bleaching, for all hair types, including textured hair	[50 <u>65</u>]
Wigs, hair pieces, and related theory	[5 <u>10</u>]
[<u>Straight razor shaving on face and neck</u>	<u>12</u>]

Regulations

Manicuring and pedicuring	15 procedures
Individual sculptured nails and nail tips	30
[Body and other treatments]	5]
[Makeup Lashes and brows]	20
Skin care	15
Hair removal	[15 10]
TOTAL	[367 365]

~~F. E.~~ The curriculum requirements for nail care must include the following minimum performances:

Manicures	30 25
Pedicures	15 20
Individual sculptured nails and nail tips	200 170
Individual removals	10 20
Individual nail wraps UV/LED gel nails	20
TOTAL	275 255

~~G. F.~~ The curriculum requirements for waxing must include the following minimum performances:

Arms	4 <u>2</u>
Back	<u>2</u> 1
Bikini area	6 <u>4</u>
Brows	12
Chest	1
Facial (i.e., face, chin, and cheek and lip)	6
Leg	3 <u>2</u>
Underarm	2
TOTAL	36 <u>30</u>

18VAC41-20-240. Records.

A. Schools ~~shall~~ must maintain on the premises of each school and available for inspection by the board or any of its agents the following records for the period of a student's enrollment through five years after the student's completion of the curriculum, termination, or withdrawal:

1. Enrollment application containing student's signature and a two-inch by two-inch color head and shoulders photograph;
2. Daily record of attendance containing student's signature;

3. Student clock hours containing student's signature and method of calculation;

4. Practical performance completion sheets containing student's signature;

5. Final transcript; ~~and~~

6. Course descriptions; and

7. All other relevant documents that account for a student's accrued clock hours and practical applications.

B. Schools ~~shall~~ must produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any student; or for which the licensee is required to maintain records; for inspection and copying by the board or its agents. The board may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

C. Schools ~~shall~~ must, within 21 days upon receipt of a written request from a student, provide documentation of hours and performances completed by the student as required to be maintained by subsection A of this section.

D. Prior to a school changing ownership or a school closing, the school is required to provide to current students documentation of hours and performances completed.

~~E. For a period of one year after a school changes ownership, the school shall provide, within 21 days upon receipt of a written request from a student, documentation of hours and performances completed by a current student.~~

18VAC41-20-250. Reporting.

A. ~~Schools shall~~ Each school must provide, in a manner, format, and frequency prescribed by the board, a roster of all current students and a roster of students who attended in the preceding six months prior to the reporting deadline student rosters to the board quarterly, no later than January 15, April 15, July 15, and October 15 of each year.

1. Each school must provide a roster of all enrolled students and a roster of students who attended in the preceding six months prior to the reporting deadline.

2. Students who are enrolled but have not begun classes must be included in the report.

B. ~~Within 30 days of ceasing to operate, whether through dissolution or alteration of the business entity, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program Rosters must be submitted via a secure link provided by the board on the board-supplied document, which will include the student's full name, date of birth, program type, date enrolled, the total number of hours to-date, and the date completed, terminated, or withdrawn.~~

C. Schools with no students enrolled but with the intention of operating must submit a report stating that information.

D. Schools with no students enrolled that no longer wish to operate should terminate the license in accordance with this chapter.

18VAC41-20-260. Display of license.

A. ~~[Each]~~ The responsible management for each shop, salon, or school ~~shall must~~ ensure that all current licenses [; and] certificates [, or permits] issued by the board ~~shall be~~ are displayed in plain view of the public either in the reception area or at individual work stations of the shop, salon, or school. Duplicate licenses [; and] certificates [, or permits] ~~shall must~~ be posted in a ~~like~~ similar manner in every shop, salon, or school location where the regulant provides services.

B. ~~[Each]~~ The responsible management for each shop, salon, or school ~~shall must~~ ensure that no employee, licensee, student, or apprentice performs any service beyond the scope of practice for the applicable license.

C. All licensees, certificate holders, and [~~permit~~ temporary license] holders ~~shall must~~ operate under the name in which the license, certificate, or permit is issued.

D. Unless also licensed as a cosmetologist, a barber or master barber is required to hold a separate nail technician or wax technician license if performing nail care or waxing.

E. ~~All~~ Proof of apprenticeship cards registration issued by the applicable agency of the Virginia Department of ~~Labor~~ Workforce Development and ~~Industry (DOLI)~~ Advancement (VDWDA) must be displayed in plain view of the public either in the reception area or at individual work stations of the shop or salon. The apprentice sponsor ~~shall must~~ require each apprentice to wear a badge clearly indicating his status as a ~~DOLI~~ VDWDA registered apprentice.

18VAC41-20-270. Sanitation and safety standards for shops, salons, and schools.

A. Sanitation and safety standards.

1. Any shop, salon, ~~or school, or facility~~ where barber, master barber, cosmetology, ~~or nail or waxing~~ wax services are delivered to the public must be clean and sanitary at all times.

2. Mobile shops and salons must be stationary while providing services, and may not operate where prohibited by local ordinance.

3. Compliance with these rules does not confer compliance with other requirements set forth by federal, state, and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health.

4. Licensees ~~shall must~~ take sufficient measures to prevent the transmission of communicable and infectious diseases

and comply with the sanitation standards identified in this section and must ensure that all employees likewise comply.

B. Disinfection and storage of implements.

1. ~~A Each barber, master barber, cosmetologist, nail technician, and wax technician must have a wet disinfection unit is a container large enough to hold a disinfectant solution in which the objects to be disinfected are completely immersed at the individual's station and must meet the standards in the definition of wet disinfection requirements.~~ A wet disinfection unit must have a cover to prevent contamination ~~of the solution. The solution must be an Environmental Protection Agency (EPA) registered disinfectant that is bactericidal, virucidal, and fungicidal. Disinfectant solutions shall and any disinfection solutions must~~ be used according to manufacturer's directions.

2. Disinfection of multiuse ~~items~~ implements constructed of hard, nonporous materials such as metal, glass, or plastic that the manufacturer designed for use on more than one client, including clippers, scissors, combs, and nippers is to be carried out in the following manner prior to servicing a client:

- Remove all foreign matter from the object, utilizing a brush if needed. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter;
- Wash thoroughly with hot water and soap;
- Rinse thoroughly with clean water and dry thoroughly with a clean paper towel;
- Fully immerse implements into wet disinfectant solution for a minimum of 10 minutes; and
- After immersion, rinse articles, dry thoroughly with a clean paper towel, and store in a clean, predisinfected, and dry cabinet, drawer, or ~~nonairtight~~ sealed covered container, or leave instruments in an ~~EPA-registered~~ wet disinfection storage solution unit used according to manufacturer's directions.

3. Single-use items designed by the manufacturer for use on no more than one client should be discarded immediately after use on each individual client, including powder puffs, lip color, cheek color, sponges, styptic pencils, ~~or~~ nail care implements, or disposable razors. The disinfection and reuse of these items is not permitted and the use of single-use items on more than one client is prohibited.

4. For the purpose of recharging, rechargeable clippers may be stored in an area other than in a closed cabinet or container. This area ~~shall must~~ be clean and the cutting edges of any clippers are to be disinfected.

5. Electrical clipper blades ~~shall must~~ be disinfected before and after each use. If the clipper blade cannot be removed, the use of a spray or foam used according to the manufacturer's instructions will be acceptable, provided that the disinfectant is an EPA-registered disinfectant that is

Regulations

bactericidal, virucidal, and fungicidal, and that the entire handle is also disinfected by wiping with the disinfectant solution.

6. All wax pots ~~shall~~ must be cleaned and disinfected with an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal and with no sticks left standing in the wax at any time. The area immediately surrounding the wax pot ~~shall~~ must be clean and free of clutter, waste materials, spills, and any other items that may pose a hazard.

~~7. Each barber, master barber, cosmetologist, nail technician, and wax technician must have a wet disinfection unit at his station.~~

~~8. Sinks, bowls,~~ 7. Foot tubs, whirlpool units, air-jetted basins, pipe-less units, and non-whirlpool basins used in the performance of nail care ~~shall~~ must be maintained in accordance with manufacturer's recommendations. They ~~shall~~ must be cleaned and disinfected immediately after each client in the following manner:

- a. Drain all water and remove all debris;
- b. Clean the surfaces and walls with soap or detergent to remove all visible debris, oils, and product residue and then rinse with water;
- c. Disinfect ~~by spraying or wiping the surface with an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal~~ in accordance with manufacturer directions for pedicure units; and
- d. Wipe dry with a clean towel.

C. General sanitation and safety requirements.

1. Service chairs, wash basins, [~~shampoo~~] sinks, [bowls], workstations and workstands, and back bars ~~shall~~ as necessitated by the services performed, must be clean;

2. The floor surface in all work areas must be of a washable surface other than carpet. ~~The floor must be kept clean and free of hair, nail clippings, dropped articles, spills, clutter, trash, electrical cords, other waste materials, and any other items that may pose a hazard;~~

3. All furniture, fixtures, walls, floors, windows, and ceilings ~~shall~~ must be clean and in good repair and free of water seepage and dirt. Any mats ~~shall~~ must be secured or ~~shall~~ must lie flat;

4. A fully functional bathroom in the same building with a working toilet and sink must be available for clients. There must be hot and cold running water. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. ~~If there is a window, it must have a screen.~~ There must be soap and clean single-use towels or hand air-drying device for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals. For facilities newly occupied after January 1, 2017, the bathroom ~~shall~~ must be maintained exclusively available for client use or shared with other businesses in the same building. ~~If the bathroom~~

~~is shared, the bathroom shall be available for client use and within 200 feet of the entrance and must adhere to all sanitation requirements of this chapter;~~

~~5. General areas for client use must be neat and clean with a waste receptacle for common trash;~~

~~6.~~ 5. Electrical cords ~~shall~~ must be placed to prevent entanglement by the client or licensee, and electrical outlets ~~shall~~ must be covered by plates;

~~7.~~ 6. All sharp tools, implements, and heat-producing appliances ~~shall~~ must be in safe working order at all times, safely stored, and placed so as to prevent any accidental injury to the client or licensee;

~~8.~~ 7. The salon area ~~shall~~ must be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air; and

~~9.~~ 8. Adequate lighting ~~shall~~ must be provided.

D. Articles, tools, and products.

1. Clean towels, robes, or other linens ~~shall~~ must be used for each patron. Clean towels, robes, or other linens ~~shall~~ must be stored in a clean, predisinfected, and dry cabinet, drawer, or nonairtight covered container. Soiled towels, robes, or other linens ~~shall~~ must be stored in a container enclosed on all sides including the top, except if stored in a separate laundry room;

2. Whenever a haircloth is used, a clean towel or neck strip ~~shall~~ must be placed around the neck of the patron to prevent the haircloth from touching the skin;

3. Soiled implements must be removed from the tops of work stations immediately after use;

4. Any multiuse article, tool, or product that cannot be disinfected by full immersion as specified in subdivision B 2 of this section or cleaned according to manufacturer's recommendation, including natural hairbrushes or neck dusters, is prohibited from use;

~~5.~~ Lotions, ointments, creams, and powders ~~shall~~ must be accurately labeled and kept in closed containers. A clean spatula, other clean tools, or clean disposable gloves ~~shall~~ must be used to remove bulk substances such as creams or ointments from jars. Sterile cotton or sponges ~~shall~~ must be used to apply creams, lotions, and powders. Cosmetic containers ~~shall~~ must be covered after each use;

~~5.~~ 6. For nail care, if a sanitary container is provided for a client, the sanitary container ~~shall~~ must be labeled and implements ~~shall~~ must be used solely for that specific client. Disinfection ~~shall~~ must be carried out in accordance with subdivisions B 1 and B 2 of this section;

~~6.~~ 7. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and

applied with a sterile single-use applicator ~~shall~~ must be used to check bleeding; and

~~7. 8. Any disposable material making contact with blood or other body fluid shall must be double-bagged, labeled as a biohazard, and disposed of in a sealed plastic bag and removed from the shop, salon, school, or facility in accordance with the guidelines of the Virginia Department of Health closed receptacle.~~

E. Chemical storage and emergency information.

1. Shops, salons, schools, and facilities ~~shall~~ must have in the immediate working area a binder with all Safety Data Sheets (SDS) provided by manufacturers for any chemical products used;

2. Shop, salons, schools, and facilities ~~shall~~ must have a blood spill clean-up kit in the work area that contains at minimum latex gloves, two 12-inch by 12-inch towels, one disposable trash bag, bleach, one empty spray bottle, and one mask with face shield or any Occupational Safety and Health Administration (OSHA) approved blood spill clean-up kit;

3. Flammable chemicals ~~shall~~ must be labeled and stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (e.g., oxidizers, catalysts, and solvents) ~~shall~~ must be labeled and separated in storage.

F. Client health guidelines.

1. All employees providing client services ~~shall~~ must cleanse their hands with a soap product prior to providing services to each client. Licensees shall require that clients for nail care services ~~shall~~ must cleanse their hands immediately prior to the requested nail care service;

2. An artificial nail ~~shall~~ must only be applied to a healthy natural nail;

3. A nail drill or motorized instrument ~~shall~~ must be used ~~only on the free edge of the nail~~ artificial nail surface only;

4. No shop, salon, school, or facility providing cosmetology or nail care services ~~shall will~~ have on the premises cosmetic products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products;

5. No product ~~shall will~~ be used in a manner that is disapproved by the FDA; and

6. All regulated services must be performed in a facility that is in compliance with current local building and zoning codes.

G. In addition to any requirements set forth in this section, all licensees and temporary ~~permit~~ license holders ~~shall~~ must adhere to regulations and guidelines established by the

Virginia Department of Health and the Occupational Safety and Health Compliance Division of the Virginia Department of Labor and Industry.

H. All shops, salons, schools, and facilities ~~shall~~ must immediately report the results of any inspection of the shop, salon, or school by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

I. All shops, salons, schools, and facilities ~~shall~~ must maintain a self-inspection form on file to be updated on an annual basis, and kept for five years, so that it may be requested and reviewed by the board at its discretion.

18VAC41-20-280. Grounds for license or certificate revocation ~~or, suspension, or probation; denial of application, renewal, or reinstatement; or imposition of a monetary penalty.~~

The board may, in considering the totality of the circumstances, ~~fine any licensee, certificate holder, or permit holder; suspend or revoke or refuse to issue, renew, or reinstate any license, or certificate, or permit; or deny any application; impose a monetary penalty; place a license or certificate on probation with such terms and conditions and for such time as the board may designate; suspend a license or certificate for a stated period of time; or revoke a license or certificate issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and this chapter if it finds that the licensee, certificate holder, permit temporary license holder, or applicant:~~

1. Is incompetent, or negligent in practice, or ~~incapable mentally or physically unable~~, as a result of any mental or physical condition, as those terms are generally understood in the profession, to skillfully and safely (i) practice as a barber, master barber, cosmetologist, nail technician, or wax technician; or to (ii) operate a shop, salon, or school;

2. Is convicted of fraud or deceit in the practice or teaching of barbering, master barbering, cosmetology, nail care, or waxing ~~or, fails to teach the board-approved curriculum as provided for in this chapter, or fails to comply with 18VAC41-20-210 H when making an assessment of credit hours awarded;~~

3. Attempts to obtain, or has obtained, renewed, or reinstated a license, certificate, or temporary license by false or fraudulent representation;

4. Violates ~~or, induces others to violate, or cooperates with others in violating;~~ any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any barber, master barber, cosmetologist, nail technician, or wax technician may practice or offer to practice;

Regulations

5. Offers, gives, or promises anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing barbering, master barbering, cosmetology, nail care, or waxing as defined in § 54.1-700 of the Code of Virginia;

6. Fails to respond to the board or any of its agents or provides false, misleading, or incomplete information to an inquiry by the board or any of its agents;

7. Fails or refuses to allow the board or any of its agents to inspect during reasonable hours any licensed shop, salon, or school for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) or this chapter;

8. Fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's, certificate holder's, temporary license holder's, applicant's, or owner's responsible management's possession or maintained in accordance with ~~these regulations~~ this chapter;

9. Fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license, certificate, or ~~permit~~ temporary license;

10. Makes any misrepresentation or publishes or causes to be published any advertisement that is false, deceptive, or misleading;

11. Fails to notify the board in writing within 30 days of ~~the suspension, revocation, or surrender of a license, certificate, or permit in connection with a final action or disciplinary action in any jurisdiction or of taken against any license, registration, certificate, or permit that has been the subject of disciplinary action~~ temporary license in any jurisdiction by a local, state or national regulatory body;

12. Has been convicted or found guilty, regardless of the manner of adjudication in Virginia or any other jurisdiction of the United States, of [~~a misdemeanor involving moral turpitude, 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 purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt;~~

13. Fails 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 12 of this section;

14. Allows, as responsible management of a shop, ~~or school,~~ or salon, a person who has not obtained a license or a temporary ~~permit~~ license to practice as a barber, master barber, cosmetologist, nail technician, or wax technician unless the person is duly enrolled as a registered apprentice;

15. Allows, as responsible management of a school, a person who has not obtained an instructor certificate or a ~~student instructor~~ temporary ~~permit~~ license to practice as a barber, master barber, cosmetologist, nail technician, or wax technician instructor;

16. Fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with sanitary requirements provided for in this chapter or any local, state, or federal law or regulation governing the standards of health and sanitation for the practices of barbering, master barbering, cosmetology, nail care, or waxing, or the operation of barbershops, cosmetology salons, nail salons, or waxing salons; or

17. Fails to comply with all procedures established by the board and the testing service with regard to conduct at any board examination.

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 (18VAC41-20)

~~Barber — Master Barber — Barber Instructor Examination and License Application, A450-1301_EXLIC v18 (rev. 5/2022)~~

~~Nail Technician — Nail Technician Instructor Examination and License Application, A450-1206_07EXLIC v19 (rev. 5/2022)~~

~~Wax Technician — Wax Technician Instructor Examination and License Application, A450-1214_15EXLIC v18 (rev. 5/2022)~~

~~Cosmetology — Cosmetology Instructor Examination and License Application, A450-1201_04EXLIC v21 (rev. 5/2022)~~

[Barber or Master Barber Instructor Examination and License Application, A450-1301_EXLIC-v22 \(rev. 12/2025\)](#)

[Nail Technician Instructor Examination and License Application, A450-1206_07EXLIC-v23 \(rev. 12/2025\)](#)

[Wax Technician Instructor Examination and License Application, A450-1214_15EXLIC-v22 \(rev. 12/2025\)](#)

[Cosmetology Instructor Examination and License Application, A450-1201_04EXLIC-v25 \(rev. 12/2025\)](#)

[Temporary Permit Application, A450-1213TEMP-v3 \(rev. 12/2021\)](#)

~~[License by Endorsement Application, A450-1213END-v20 \(rev. 8/2025\)](#)~~

[License by Endorsement Application, A450-1213END-v21 \(rev. 12/2025\)](#)

[Individuals – Reinstatement Application, A450-1213REI-v16 \(rev. 8/2025\)](#)

~~[Salon, Shop, Spa, and Parlor License and Reinstatement Application, A450-1213BUS-v19 \(rev. 8/2025\)](#)~~

[Salon, Shop, Spa, and Parlor License and Reinstatement Application, A450-1213BUS-v20 \(rev. 12/2025\)](#)

[Salon, Shop, and Spa Self-Inspection Form, A450-1213_SSS_INSP-v2 \(eff. 5/2016\)](#)

~~[Instructor Certification Application, A450-1213INST-v21 \(rev. 8/2025\)](#)~~

~~[Student Instructor Temporary Permit Application A450-1213ST_TEMP-v4 \(rev. 12/2021\)](#)~~

~~[School License Application, A450-1213SCHL-v23 \(rev. 8/2025\)](#)~~

~~[School Reinstatement Application, A450-1213SCHL-REIN-v12 \(rev. 8/2025\)](#)~~

[Instructor Certification Application, A450-1213INST-v22 \(rev. 12/2025\)](#)

[Student Instructor Temporary Permit Application, A450-1213ST_TEMP-v5 \(rev. 12/2025\)](#)

[School License Application, A450-1213SCHL-v24 \(rev. 12/2025\)](#)

[School Reinstatement Application, A450-1213SCHL-REIN-v13 \(rev. 12/2025\)](#)

[School Self-Inspection Form, A450-1213_SCH_INSP-v5 \(eff. 1/2022\)](#)

[Licensure Fee Notice, A450-1213FEE-v13 \(rev. 8/2025\)](#)

[Change of Responsible Management Application, A450-1213CRM-v6 \(rev. 12/2021\)](#)

[Training Substitution Form, A450-1213TR_SUB-v1 \(rev. 10/2021\)](#)

[Training Verification Form, A450-1213TR-vs1 \(eff. 5/2022\)](#)

[Experience Verification Form, A450-1213EXP-v2 \(eff. 7/2022\)](#)

[Barber-Cosmetology Universal License Application, A450-1213ULR-v3 \(rev. 8/2025\)](#)

[Change of Instructor Application, A450-1213SCI-v1 \(eff. 12/2025\) \]](#)

VA.R. Doc. No. R24-7708; Filed September 26, 2025, 7:01 a.m.

Action Withdrawn

Titles of Regulations: **18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-100, 18VAC41-20-110, 18VAC41-20-200, 18VAC41-20-210, 18VAC41-20-220, 18VAC41-20-260).**

18VAC41-70. Esthetics Regulations (amending 18VAC41-70-100, 18VAC41-70-180, 18VAC41-70-190, 18VAC41-70-260; repealing 18VAC41-70-110).

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

The Board for Barbers and Cosmetology has WITHDRAWN the regulatory action for **18VAC41-20, Barbering and Cosmetology Regulations**, and **18VAC41-70, Esthetics Regulations**, which were published as a Proposed Regulation in **40:19 VA.R. 1628-1642 May 6, 2024**. The purpose of the proposed action was to establish a uniform instructor program among licensed cosmetology, barber, nail, wax, and esthetics schools. At the board meeting on July 21, 2025, the board voted to withdraw the amendments in the proposed action and incorporate the changes into two different final stage regulations being published in this issue of the Virginia Register.

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

VA.R. Doc. No. R21-6774; Filed September 26, 2025, 11:11 a.m.

Final Regulation

Title of Regulation: **18VAC41-70. Esthetics Regulations (amending 18VAC41-70-10 through 18VAC41-70-40, 18VAC41-70-60, 18VAC41-70-80, 18VAC41-70-90, 18VAC41-70-100, 18VAC41-70-120, 18VAC41-70-140 through 18VAC41-70-280; adding 18VAC41-70-15, 18VAC41-70-105; repealing 18VAC41-70-50, 18VAC41-70-110, 18VAC41-70-130, 18VAC41-70-210).**

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

Effective Date: December 1, 2025.

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

Summary:

The amendments (i) remove the required completion of an instructor training program to engage in esthetics or master esthetics instruction; (ii) reduce certified instructor renewal and reinstatement fees; (iii) reduce barriers to enter the esthetics profession for individuals with training outside of Virginia; (iv) reduce the experience requirements to become a chief examiner; (v) reduce the look-back period for disclosure of prior felony convictions; (vi) revise fee provisions; (vii) revise reinstatement provisions; (viii) update standards of

Regulations

practice, including sanitation and safety standards for spas and schools; and (ix) make several administrative requirements less stringent.

Changes to the proposed regulation include (i) revising entry requirements for the licensure of individual estheticians, certification of instructors, licensure of spas, and licensure of schools to remove the requirement for applicants to disclose misdemeanor criminal convictions when making application for licensure or certification; (ii) reflecting fee adjustments for the renewal and reinstatement of instructor certifications; (iii) revising provisions for renewal of licenses and certificates to allow for a paperless licensing process; (iv) incorporating existing application requirements for licensure of schools and approval of school curricula that are not currently in regulation; and (v) requiring the responsible management of spas and schools to ensure individuals practicing at these facilities do not perform services beyond the scope of practice for their respective licenses.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18VAC41-70-10. Definitions.

A. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. All terms defined ascribed to them in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.:

"Board"

"Esthetician"

"Esthetics"

"Esthetics instructor"

"Esthetics spa"

"Master esthetician"

"School of esthetics"

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

"Apprenticeship program" means an approved esthetics or master esthetics training program conducted by an approved registered apprenticeship sponsor.

"Business entity" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

"Clock hour" means a minimum of 50 minutes of supervised or directed instruction and appropriate breaks.

"Credit hour" means a combination of the number of hours in class each week and the number of hours per week in a

laboratory by which a school may measure its course work. One unit of credit equals one hour of classroom or online study, two hours of laboratory experience, or three hours of internship or practicum or a combination of the three times the number of weeks in the term. ~~Emerging delivery methodologies may necessitate a unit of undergraduate credit to be measured in nontime base methods. These courses shall use the demonstration of competency, proficiency, or fulfillment of learning outcomes to ensure these courses are equivalent to traditionally delivered courses.~~

"Direct supervision" means that (i) a Virginia licensed esthetician or master esthetician ~~shall be~~ is present in the esthetics spa or esthetics school at all times when services are being performed by a temporary license holder or ~~student~~ registered apprentice or (ii) a Virginia licensed and certified esthetician or master esthetician instructor or a student instructor temporary license holder is present in the esthetics school at all times when services are being performed by a student, student instructor, or temporary license holder.

~~"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state or jurisdiction.~~

"Each and every location" means, for the purposes of schools with multiple suites or classrooms, a single location is one that is enclosed under one roof and where all classrooms and suites are within 500 feet of the main office.

"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.

~~"Licensee" means any sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law individual or firm holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia board.~~

"Post-secondary educational level" means an accredited college or university that is approved or accredited ~~by the Southern Association of Colleges and Schools Commission on Colleges or~~ by an accrediting agency that is recognized by the U.S. Secretary of Education.

"Reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee is generally not substantially open to the public during the same hours, "reasonable hours" means the business hours when the licensee is open to the public.

"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certificate for another period of time.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;

2. The partners of a general partnership;
3. The managing partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company;
6. The officers or directors of an association ~~or both~~; and
7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

"Sole proprietor" means any individual, not a corporation, who is trading under ~~his~~ that individual's own name or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent exam" means an examination administered by the licensing entity that covers Virginia's scope of practice for that profession.

"Substantially equivalent training" means at least 80% of the hours required in Virginia and curriculum content covering Virginia's scope of practice for that profession.

~~"Virginia state institution" for the purposes of this chapter~~ means any institution approved by the Virginia Department of Education.

"Wet disinfection unit" is a container large enough to hold an Environmental Protection Agency (EPA) registered disinfectant that is a bactericidal, virucidal, and fungicidal solution in which the objects to be disinfected are completely immersed.

18VAC41-70-15. Gratuitous services.

[~~Any~~ As provided in subdivision 5 of § 54.1-701 of the Code of Virginia, any] individual who engages in esthetics or master esthetics without receiving compensation, reward, or obligation is considered to be performing gratuitous services and is exempt from the provisions of this chapter. Gratuitous services do not include services provided at no charge when goods are purchased.

18VAC41-70-20. General requirements for an esthetician license or master esthetician license.

A. Any individual wishing to engage in esthetics or master esthetics ~~shall~~ must obtain a license in compliance with § 54.1-703 of the Code of Virginia and meet the following qualifications:

1. The applicant ~~shall~~ must be in good standing as a licensed esthetician or master esthetician in Virginia and all other jurisdictions where licensed, certified, or registered. The applicant ~~shall disclose to the board at the time of application for licensure~~ must provide a copy of any disciplinary action taken in Virginia and all other jurisdictions ~~in connection with the applicant's practice as an esthetician to the board at the time of application for licensure~~. This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license in connection with a disciplinary

action, or voluntary termination of a license. ~~The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as an esthetician or master esthetician.~~

Upon review of an applicant's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant ~~wherein who [it the board] deems the applicant is unfit or unsuited to engage in esthetics or master esthetics. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.~~

2. The applicant ~~shall~~ must disclose the applicant's physical address. A post office box ~~is not acceptable~~ may be provided as a secondary address.

3. The applicant ~~shall~~ must sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia esthetics license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose [~~the following information regarding criminal convictions in Virginia and all other jurisdictions: a. All misdemeanor convictions involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury [within two years of the date of the application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury; and b. All all] felony convictions [in Virginia and all other jurisdictions] within 20 10 years of the date of application.~~

~~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~~ must provide evidence satisfactory to the board that the applicant has passed the board-approved examination requirement administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. Training in the Commonwealth of Virginia. Any person completing ~~an approved esthetics training program or a master esthetics training program in a Virginia licensed esthetics school shall be one of the following programs is eligible for the applicable examination;~~

Regulations

- a. An approved esthetics or master esthetics training program in a Virginia licensed esthetics or master esthetics school; or
- b. A registered apprenticeship.

2. Training outside of the Commonwealth of Virginia.

- a. Any person completing esthetics training or an apprenticeship program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of training to be eligible for examination. If less than the required hours of esthetics training was completed, an Applicants who have earned a degree from an institution outside the United States must have the degree translated, authenticated, and evaluated by an education evaluation service if the applicant is seeking credit for the education. The board, in its discretion, may decline to accept any evaluation submitted by an applicant.
- b. An applicant who has completed a training or apprenticeship program that is not substantially equivalent to Virginia's training must submit a certificate, diploma, or other documentation acceptable to the board verifying the completion of a substantially equivalent esthetics course and documentation of six months three years of work experience. An applicant should provide a work history demonstrating three years of experience as an a licensed esthetician in order to be eligible for the or master esthetician examination in any other state or jurisdiction of the United States on a form provided by the board.

18VAC41-70-30. License by endorsement.

A. Upon proper application to the board, any person currently licensed to practice as an esthetician or master esthetician or who is a licensed instructor in the respective profession in any other state or jurisdiction of the United States and who has completed both a training or apprenticeship program and a written examination and a practical examination that are substantially equivalent to those the training and [examination examinations] required by this chapter may be issued an esthetician or master esthetician license or the respective instructor certificate without an examination. The applicant must also meet the requirements set forth in 18VAC41-70-20 A.

B. Applicants for licensure by endorsement who have completed an equivalent training or apprenticeship program and whose state only utilizes one licensing examination (written or practical) that is substantially equivalent to that required by this chapter may take the other examination (written or practical) in Virginia to qualify for licensure.

C. Applicants for licensure by endorsement who have completed a training or apprenticeship program that is not substantially equivalent to Virginia's training but otherwise meet all the requirements listed in subsection A of this section

may substitute three years of work experience for training. Applicants must provide a work history demonstrating three years of licensed experience in any other state or jurisdiction of the United States on a form provided by the board.

18VAC41-70-35. Apprenticeship training.

A. Licensed estheticians and master estheticians who train apprentices shall must comply with the standards for apprenticeship training established by the Division of Registered Apprenticeship of the Virginia Department of Labor and Industry and the Virginia Board for Barbers and Cosmetology. Owners of esthetics spas who train apprentices shall comply with the standards for apprenticeship training established by the Division of Registered Apprenticeship of the Virginia Department of Labor and Industry.

B. Any person completing the Virginia apprenticeship program in esthetics or master esthetics shall be eligible for examination Licensed spas where apprentices train must comply with the standards for registered apprenticeship training.

18VAC41-70-40. Examination requirements and fees.

A. Applicants for initial licensure shall must pass [both a the] practical [examination] and [a] written examination and a practical [portion of the] examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any applicant who passes [one part of either] the [practical or written] examination shall will not be required to take that [part examination] again, provided both [parts examinations] are passed within one year of the initial examination date.

C. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

D. C. The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall will not exceed \$225 per candidate.

E. D. Any candidate failing to apply for initial licensure within five years of passing both a the practical and written [portions of the examination examinations] and a practical examination shall will be required to retake both [portions examinations]. Records of examinations shall be maintained for a maximum of five years.

E. Any applicant who does not pass a reexamination within one year of the initial examination date will be required to submit a new application.

18VAC41-70-50. ~~Reexamination~~ requirements. (Repealed.)

~~Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.~~

18VAC41-70-60. Examination administration.

A. The examination ~~shall~~ must be administered by the board or the designated testing service. The practical examination ~~shall~~ must be supervised by a chief examiner.

B. Every esthetics or master esthetics examiner ~~shall~~ must hold a current Virginia license in ~~his~~ the respective profession, have three or more years of active experience as a licensed professional, and be currently practicing in that profession. ~~Examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.~~

C. No certified esthetics or master esthetics instructor who (i) is currently teaching, (ii) is a school owner, or (iii) is an apprentice sponsor ~~shall~~ may be an examiner.

D. Each esthetics or master esthetics chief examiner ~~shall~~ must (i) hold a current Virginia license in ~~his~~ the respective profession, (ii) have ~~five~~ three or more years of active experience in that profession, (iii) have ~~three years~~ one year of active experience as an examiner, and (iv) be currently practicing in ~~his~~ the respective profession. ~~Chief examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.~~

E. The applicant ~~shall~~ must follow all procedures established by the board with regard to conduct at [~~the~~ an] examination. Such procedures ~~shall~~ include written instructions communicated prior to the examination date and instructions communicated at the site, ~~either written or oral~~, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

F. Examiners and chief examiners must attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

18VAC41-70-80. General requirements for spa license.

A. Any firm wishing to operate an esthetics spa ~~shall~~, including any mobile spa, must obtain a spa license in compliance with § 54.1-704.1 of the Code of Virginia, and ~~shall~~ must meet the following qualifications in order to receive a license:

1. The applicant, and all members of the responsible management, ~~shall~~ must be in good standing as a licensed spa in Virginia and all other jurisdictions where licensed, certified, or registered. The applicant and all members of the responsible management ~~shall disclose to the board at the time of application for licensure, must provide a copy of any~~

disciplinary action taken in Virginia and all other jurisdictions ~~in connection with the applicant's operation of any esthetics spa or practice of the profession to the board at the time of application for licensure~~. This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license in connection with a disciplinary action, ~~or~~ and voluntary termination of a license. ~~The applicant shall disclose to the board at the time of application for licensure if the applicant or any member of responsible management has been previously licensed in Virginia as an esthetics spa.~~

Upon review of the applicant's and all members of the responsible management's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant ~~wherein that [it the board] deems the applicant is unfit or unsuited to engage in the operation of an esthetics spa. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.~~

2. The applicant ~~shall~~ must disclose the applicant's physical address. A post office box ~~is not acceptable~~ may be provided as a secondary address. Mobile spas must provide a physical address where the spa is permanently garaged.

3. The applicant ~~shall~~ must sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia esthetics license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose [~~the following information about the firm and all members of the responsible management regarding criminal convictions in Virginia and all other jurisdictions: a. All misdemeanor convictions within two years of the date of application involving moral turpitude, sexual offense, non marijuana drug distribution, or physical injury~~] within two years of the date of the application [; and b. All all] felony convictions [in Virginia and all other jurisdictions for the firm and all members of the firm's responsible management] within ~~20~~ 10 years of the date of application.

~~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.~~

Regulations

5. The applicant ~~shall~~ must disclose the firm's responsible management.

B. Spa licenses are issued to firms ~~as defined in this chapter and shall [will are] not [be] transferable and shall bear the same name and address of the business.~~ Any changes in the name or address of the spa ~~shall must~~ be reported to the board in writing within 30 days of such changes. The board ~~shall will~~ not be responsible for the licensee's, ~~certificate holder's, or permit holder's~~ failure to receive notices, communications, and correspondence caused by the licensee's, ~~certificate holder's, or permit holder's~~ failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board.

C. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void ~~and shall be returned to the board within 30 days of the change.~~ Additionally, ~~the~~ The firm ~~shall must~~ notify the board, apply for a new license, within 30 days of the change in the business entity, and destroy the license. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

D. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association ~~shall must~~ be reported to the board in writing within 30 days of the change.

E. The board or any of its agents ~~shall must~~ be allowed to inspect during reasonable hours any licensed spa for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or this chapter. ~~For purposes of a board inspection, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public.~~

18VAC41-70-90. General requirements for a school license.

A. Any firm wishing to operate an esthetics school ~~shall must~~ submit an application to the board at least 60 days prior to the date for which approval is sought, obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia, and meet the following qualifications in order to receive a license:

1. The applicant and all members of the responsible management ~~shall must~~ be in good standing as a licensed esthetics school in Virginia and all other jurisdictions where

licensed, certified, or registered. The applicant and all members of the responsible management ~~shall disclose to the board at the time of application for licensure, must provide a copy of any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's operation of any esthetics school or practice of the profession to the board at the time of application for licensure.~~ This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license in connection with a disciplinary action, ~~or~~ and voluntary termination of a license. ~~The applicant shall disclose to the board at the time of application for licensure if the applicant or any member of the responsible management has been previously licensed in Virginia as an esthetics school.~~

Upon review of the applicant's and all members of the responsible management's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant ~~wherein that [it the board] deems the applicant is unfit or unsuited to engage in the operation of an esthetics school. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section.~~ The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

2. The applicant ~~shall must~~ disclose the applicant's physical address. A post office box ~~is not acceptable~~ may be provided as a secondary address.

3. The applicant ~~shall must~~ sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia esthetics license laws and this chapter.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall must~~ disclose ~~[the following information about the firm and all members of the responsible management regarding criminal convictions in Virginia and all other jurisdictions: a. All misdemeanor convictions within two years of the date of application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury] within two years of the date of the application [; and b. All all] felony convictions [in Virginia and all other jurisdictions for the firm and all members of the firm's responsible management]~~ within ~~20~~ 10 years of the date of application.

~~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~~ must disclose the firm's responsible management.

B. Esthetics school licenses are issued to firms ~~as defined in this chapter and shall~~ are not be transferable and shall bear the same name and address as the school. Any changes in the name or the address of record or principal place of business of the school ~~shall~~ must be reported to the board in writing within 30 days of such change. The board ~~shall~~ will not be responsible for the licensee's, ~~certificate holder's, or permit holder's~~ failure to receive notices, communications, and correspondence caused by the licensee's, ~~certificate holder's, or permit holder's~~ failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board. The name of the school must indicate that it is an educational institution. All signs or other advertisements must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the original license becomes void ~~and shall be returned to the board within 30 days of the change~~. Additionally, the ~~The firm shall~~ must ~~notify the board, apply for a new license within 30 days of the change in business entity, and destroy the license~~. Such changes include:

1. Death of a sole proprietor;
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and
3. Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

D. Within 30 days of ceasing to operate, whether through dissolution or alteration of the business entity, the school must provide a written report to the board detailing the performances and hours of each student who has not completed the program.

E. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association ~~shall~~ must be reported to the board in writing within 30 days of the change.

~~E.~~ F. Esthetics schools under the Virginia Department of Education ~~shall be exempted~~ are exempt from licensure requirements.

~~F.~~ G. The board or any of its agents ~~shall~~ must be allowed to inspect during reasonable hours any licensed school for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or this chapter. ~~For purposes of a board inspection, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the~~

~~same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public.~~

18VAC41-70-100. General requirements for an esthetics and master esthetics instructor certificate.

A. Any individual wishing to engage in esthetics ~~or master esthetics~~ instruction ~~shall~~ must meet the following qualifications:

1. The applicant ~~shall~~ must be in good standing as a licensed esthetician, ~~master esthetician, or instructor, respectively, in Virginia and all other jurisdictions where licensed, certified, or registered~~. The applicant ~~shall disclose to the board at the time of application for licensure~~ must provide a copy of any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's practice since being previously licensed as an esthetician or master esthetician to the board at the time of application for certification. This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license or certification in connection with a disciplinary action, or voluntary termination of a license or certification. ~~The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as an esthetician or master esthetician.~~

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny licensure certification to any applicant ~~wherein it that the board deems the applicant is unfit or unsuited to engage in the instruction of esthetics or master esthetics~~. ~~The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action;~~

2. The applicant ~~shall~~ must hold and maintain a current Virginia ~~esthetics~~ esthetician or master esthetician license, respectively;

3. The applicant ~~shall~~ must complete one of the following qualifications:

- a. Pass a course in teaching techniques at the ~~postsecondary~~ post-secondary educational level; or
- b. ~~Complete~~ Pass an instructor ~~training course approved by the Virginia Board for Barbers and Cosmetology under the supervision of a certified esthetics instructor or master esthetics instructor in an esthetics school and pass an examination in esthetics instruction~~ administered by the board or by a testing service acting on behalf of the board; and

Regulations

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall must~~ disclose [~~the following information regarding criminal convictions in Virginia and all other jurisdictions since being previously licensed as an esthetician or master esthetician:~~ a. All misdemeanor convictions within two years of the date of the application involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury] within two years of the date of the application [; and b. All all] felony convictions [in Virginia and all other jurisdictions since being previously licensed as an esthetician or master esthetician] within ~~20~~ 10 years of the date of application.

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 certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

~~B. Instructors shall be required to maintain a Virginia esthetician license~~ Certified instructors may teach in any profession in which they hold the underlying license.

18VAC41-70-105. Student instructor temporary license.

A. A licensed esthetician or master esthetician may be granted a 12-month student instructor temporary license to function under the direct supervision of a certified instructor in a licensed school. No subsequent student instructor temporary license will be issued. A student instructor must pass an instructor examination administered by the board or by a testing service acting on behalf of the board.

B. A student instructor may teach in any profession in which the student instructor holds the underlying license. Failure to maintain an esthetician or master esthetician license will disqualify an individual from holding a student instructor temporary license.

C. Licensed estheticians and master estheticians may also supervise waxing student instructor temporary license holders. Licensed master estheticians may also supervise esthetician student instructor temporary license holders.

D. The student instructor temporary license holder must be associated with both a school and a direct supervisor.

E. Temporary licenses may not be issued where grounds may exist to deny a license pursuant to § 54.1-204 of the Code of Virginia or 18VAC41-70-100.

18VAC41-70-110. General requirements for a master esthetics instructor certificate. (Repealed.)

~~A. Any individual wishing to engage in master esthetics instruction shall meet the following qualifications:~~

- ~~1. The applicant shall be in good standing as a licensed master esthetician in Virginia and all other jurisdictions where licensed. The applicant shall disclose to the board at~~

~~the time of application for licensure any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's practice as a master esthetician. This includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure if the applicant has been previously licensed in Virginia as an esthetician or master esthetician.~~

~~Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant wherein it deems the applicant is unfit or unsuited to engage in esthetics or master esthetics. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action;~~

~~2. The applicant shall hold a current Virginia master esthetician license;~~

~~3. The applicant shall complete one of the following qualifications:~~

- ~~a. Pass a course in teaching techniques at the postsecondary educational level; or~~
- ~~b. Complete an instructor training course approved by the Virginia Board for Barbers and Cosmetology under the supervision of a certified esthetics instructor or master esthetics instructor in an esthetics school and pass an examination in esthetics instruction administered by the board or by a testing service acting on behalf of the board; and~~

~~4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:~~

- ~~a. All misdemeanor convictions involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury within two years of the date of the application; and~~
- ~~b. All felony convictions within 20 years of the date of application.~~

~~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.~~

~~B. Instructors shall be required to maintain a Virginia master esthetician license.~~

18VAC41-70-120. Fees.

The following fees apply: All fees are nonrefundable and will not be prorated.

FEE TYPE	AMOUNT DUE	WHEN DUE
Individuals:		
Application	\$120	With application
License by Endorsement	\$120	With application
Renewal	\$120	With renewal card prior to expiration date
Reinstatement	\$240* *includes \$120 renewal fee and \$120 reinstatement fee	With reinstatement application
Instructors <u>Instructor Certificate:</u>		
Application	\$140	With application
License by Endorsement	\$140	With application
Renewal	\$165 [\$20 \$45]	With renewal card prior to expiration date
Reinstatement	\$330* [\$40 \$90*] *includes \$165 [\$20 \$45] renewal fee and \$165 [\$20 \$45] reinstatement fee	With reinstatement application
Spas:		
Application	\$220	With application
Renewal	\$220	With renewal card prior to expiration date

Reinstatement	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application
Schools:		
Application	\$250	With application
Renewal	\$250	With renewal card prior to expiration date
Reinstatement	\$500* *includes \$250 renewal fee and \$250 reinstatement fee	With reinstatement application

18VAC41-70-130. ~~Refunds.~~ (Repealed.)

~~All fees are nonrefundable and shall not be prorated.~~

18VAC41-70-140. License renewal required.

A license or certificate issued under this chapter ~~shall~~ will expire two years from the last day of the month in which it was issued.

18VAC41-70-150. Notice of renewal.

The Department of Professional and Occupational Regulation will [~~mail send~~] a renewal notice to the licensee or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, ~~shall~~ does not relieve the licensee or certificate holder of the obligation to renew. [~~If the licensee or certificate holder fails to receive the renewal notice, a copy of the old license or certificate may be submitted as evidence of intent to renew, along with the required fee.~~]

18VAC41-70-160. Failure to renew.

A. When a licensee an individual or business entity fails to renew [~~its a~~] license or certification within 30 days following ~~its~~ the expiration date, the licensee ~~shall apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and~~ or certificate holder [who intends to remain licensed or certified] must pay the reinstatement fee.

B. When a licensee an individual or business entity fails to renew [~~its a~~] license or certification within two years following the expiration date, reinstatement is no longer possible. To resume practice:

1. The former licensee or certificate holder ~~shall~~ must apply for licensure or certification as a new applicant and ~~shall~~ must meet all current entry requirements for each respective

Regulations

license or certificate. ~~Individuals applying for licensure under this section shall be eligible to apply for a temporary license from the board under 18VAC41-70-70.~~

2. An individual ~~initially granted licensure under an examination exemption, known as grandfathering, pursuant to § 54.1-703.3 of the Code of Virginia shall submit a new application showing the individual met the requirements of the applicable examination waiver provision, demonstrate five years of previously licensed experience, in Virginia for a minimum of three years must submit a new application and pass the required examination.~~

C. ~~The application for reinstatement for~~ If a licensed school shall fail to renew its license within 30 days following the expiration date, the licensee must pay the reinstatement fee.

1. After 180 days, the school must submit a reinstatement application and must provide (i) the reasons for failing to renew prior to the expiration date and (ii) a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement After 180 days, reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18VAC41-70-230 and 18VAC41-70-240. Upon Pursuant to 18VAC41-70-90, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license; or require requalification; or both.

2. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall will be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

D. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

E. When a license or certificate is reinstated, the licensee shall have the same license number and shall or certificate holder will be assigned an expiration date two years from the previous expiration date of the license last day of the month of reinstatement.

F. A licensee or certificate holder that reinstates [its a] license shall or certificate will be regarded as having been

continuously licensed without interruption. Therefore, a licensee ~~shall~~ or certificate holder will be subject to the authority of the board for activities performed prior to reinstatement.

G. A licensee or certificate holder that fails to reinstate [its a] license shall or certificate will be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in this chapter shall [will divest divests] the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the individual or business entity was licensed or certified.

18VAC41-70-180. General requirements.

[A.] An esthetics school shall must:

1. Hold a school license for each and every location. Any suites or classrooms that are located in a different building or are further than 500 feet from the main office are considered a separate location and require the school hold an additional license.

2. Hold a spa license if the school receives compensation for services provided in its clinic.

3. ~~For esthetics courses, employ a staff~~ Employ and ensure all training is conducted under the direct supervision of licensed and certified esthetics instructors or licensed and certified master esthetics instructors, respectively. [A list of all certified instructors must be provided with the application for licensure.]

a. Licensed and certified esthetics instructors and master esthetics instructors may also instruct a waxing program.

b. Licensed and certified master esthetics instructors may also instruct an esthetics program.

c. Any change in instructors must be reported to the board within 30 days of the change.

4. ~~For master esthetics courses, employ a staff of licensed and certified master esthetics instructors.~~

5. ~~4.~~ Develop individuals for entry-level competency in esthetics and master esthetics.

6. ~~5.~~ Submit its curricula for board approval. [Esthetician curricula shall be based on a minimum of 600 clock or equivalent credit hours and shall include performances in accordance with 18VAC41-70-190 . Master esthetician curricula shall be based on a minimum of 600 clock or equivalent credit hours and shall include performances in accordance with 18VAC41-70-190 G.] All changes to curricula must be resubmitted and approved by the board. [The theory portions of the curriculum may be offered online. Practical instruction must be obtained in a traditional brick and mortar classroom setting. Schools must utilize technologies and practices that are effective in verifying the identity of distance learning students who participate in

~~class or coursework (e.g., a secure login and passcode) while protecting student privacy. Educational technologies must be capable of monitoring a student's time and activities. There must be a measure of competency (e.g., an examination) of the information the student is taught online, which must be completed in a traditional brick and mortar classroom.~~

a. Esthetician curricula must be based on a minimum of 600 clock or equivalent credit hours and must include performances in accordance with 18VAC41-70-200 A.

b. Master esthetician curricula must be based on a minimum of 600 clock or equivalent credit hours and must include performances in accordance with 18VAC41-70-200 B.]

~~7. 6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the spa in plain view of the public.~~

~~8. 7. Conduct classroom instruction in an area separate from the clinic area where practical instruction is conducted and services are provided. [A sketch of the school floor plan must be included in the application for licensure.]~~

~~9. Complete practical instruction in the school's clinic area.~~

[B. The theory portions of the curriculum may be offered online. Practical instruction must be obtained in a traditional brick-and-mortar classroom setting. Theory and practical training must be conducted in the same building, unless the school has board approval to offer the theory training online. Schools must utilize technologies and practices that are effective in verifying the identity of distance-learning students who participate in class or coursework (e.g., a secure login and passcode) while protecting student privacy. Educational technologies must be capable of monitoring a student's time and activities. The school must utilize a measure of competency (e.g., an examination) of the information the student is taught online, which must be completed in a traditional brick-and-mortar classroom.]

18VAC41-70-190. Curriculum and hours of instruction requirements.

A. Each esthetics school ~~shall~~ must submit with its application a curriculum, including a course syllabus, a detailed course content outline, [a copy of any course text,] a sample of five ~~lessons~~ lesson plans, a sample of evaluation methods to be used, days and hours of instruction, program length, a sample of a final transcript, [and] a breakdown of hours ~~or credit hours~~ and performances for all courses to be taught that will lead to licensure [~~or certification~~ , and a sample test of at least 25 questions that will be administered to students, including answer key]. ~~In addition, if a school awards credit in accordance with subsection D of this section, the school shall submit copies of the assessment policy, method of~~

~~evaluation of transcripts and the examination to be used in making the assessment.~~

B. The outline for esthetics curriculum and hours of instruction in this technology shall consist of 600 hours or equivalent credit hours and shall must include the following:

1. Orientation and business topics - minimum of 25 hours of instruction.
 - a. School policies;
 - b. Management;
 - c. Sales, inventory, and retailing;
 - d. Taxes and payroll;
 - e. Insurance;
 - f. Client records and confidentiality; and
 - g. Professional ethics and practices.
2. Laws and regulations - minimum of 10 hours of instruction.
3. General sciences - minimum of 80 hours of instruction.
 - a. Bacteriology;
 - b. Microorganisms;
 - c. Infection control, disinfection, and sterilization;
 - d. Occupational Safety and Health Administration (OSHA) requirements;
 - e. ~~Material~~ Safety Data Sheet (~~MSDS~~) (SDS);
 - f. General procedures and safety measures;
 - g. Cosmetic chemistry;
 - h. Products and ingredients; and
 - i. Nutrition.
4. Applied sciences - minimum of 95 hours of instruction.
 - a. Anatomy and physiology;
 - b. Skin structure and function;
 - c. Skin types;
 - d. Skin conditions; and
 - e. Diseases and disorders of the skin.
5. Skin care - minimum of 255 hours of instruction.
 - a. Health screening;
 - b. Skin analysis and consultation;
 - c. Effleurage and related movements and manipulations of the face and body;
 - d. ~~Cleansings~~ Cleansing procedures;
 - e. Masks;
 - f. Extraction techniques;
 - g. Machines, equipment, and electricity;
 - h. Manual facials and treatments;
 - i. Machine, electrical facials, and treatments; and

Regulations

- j. General procedures and safety measures.
- 6. Makeup - minimum of 65 hours of instruction.
 - a. Setup, supplies, and implements;
 - b. Color theory;
 - c. Consultation;
 - d. General and special occasion application;
 - e. Camouflage;
 - f. Application of false lashes and lash extensions;
 - g. Lash and tinting;
 - h. Lash perming;
 - i. ~~Lightening~~ Lightening of the hair on body, except scalp; and
 - j. General procedures and safety measures.
- 7. Body and other treatments - minimum of 20 hours of instruction.
 - a. Body treatments;
 - b. Body wraps;
 - c. Body masks;
 - d. Body scrubs;
 - e. Aromatherapy; and
 - f. General procedures and safety measures.
- 8. Hair removal - minimum of 50 hours of instruction.
 - a. Types of hair removal;
 - b. Wax types;
 - c. Tweezing;
 - d. Chemical hair removal;
 - e. Mechanical hair removal; and
 - f. General procedures and safety measures.

C. The outline for master esthetics curriculum and hours of instruction in this technology shall consist of 600 hours or equivalent credit hours and shall must include the following:

- 1. Orientation, advanced business subjects, and infection control - minimum of 45 hours of instruction.
 - a. School policies and procedures;
 - b. Professional ethics and practices;
 - c. Ethics and professional conduct;
 - d. Insurance and liability issues;
 - e. Confidentiality and Health Insurance Portability and Accountability Act of 1996 Privacy Rule (HIPAA);
 - f. Client records and documentation;
 - g. Microbiology and bacteriology;
 - h. Infection control, disinfection, and sterilization;
 - i. Occupational Safety and Health Administration (OSHA), U.S. Food and Drug Administration (FDA); ~~and~~ Material

- j. ~~Safety Data Sheet (MSDS)~~ (SDS); and
- ~~j. k.~~ k. Personal protective equipment.
- 2. State laws, rules, and regulations - minimum of 10 hours of instruction.
- 3. Advanced anatomy and physiology - minimum of 65 hours of instruction.
 - a. Advanced anatomy and physiology;
 - b. Advanced skin structure and functions;
 - c. Advanced skin typing and conditions;
 - d. Advanced disease and disorders;
 - e. Advanced cosmetic ingredients;
 - f. Pharmacology; and
 - g. Advanced homecare.
- 4. Advanced skin care and advanced modalities - minimum of 90 hours of instruction.
 - a. Introduction to microdermabrasion and dermaplaning;
 - b. Indications and contraindications for crystal microdermabrasion;
 - c. General procedures and safety measures for crystal microdermabrasion;
 - d. Indications and contraindications for crystal-free microdermabrasion and dermaplaning;
 - e. General procedures and safety measures for crystal-free microdermabrasion and dermaplaning;
 - f. Equipment safety: crystal and crystal-free microdermabrasion and dermaplaning;
 - g. Waste disposal, Occupational Safety and Health Administration (OSHA);
 - h. Introduction to microdermabrasion techniques and proper protocols;
 - i. Machine parts, operation, protocols, care, waste disposal, and safety;
 - j. Practical application and consultation for crystal microdermabrasion;
 - k. Practical application and consultation for crystal-free microdermabrasion and dermaplaning; and
 - l. Pretreatment and posttreatment for microdermabrasion.
- 5. Advanced procedures and chemical exfoliation - minimum of 270 hours of instruction.
 - a. Advanced skin analysis and consultation and health screening and documentation;
 - b. Advanced procedures, light treatments, light-emitting diode (LED), intense pulsed light (IPL) device ~~(IPL)~~;
 - c. Advanced manual, machine, and electric treatments, microcurrent, and ultrasound;
 - d. Introduction to chemical exfoliation and peels of the epidermis;

- e. Fundamentals of skin care associated with chemical exfoliation and peels and wound healing;
 - f. Pretreatment and posttreatment for chemical exfoliation and peels;
 - g. Assessing suitability and predicting chemical exfoliation efficacy;
 - h. General practical application and consultation protocols;
 - i. Practical application and consultation for enzymes, herbal exfoliations, and vitamin-based peels;
 - j. Indications and contraindications for enzymes, herbal exfoliations, and vitamin-based peels;
 - k. General procedures and safety measures for enzymes, herbal exfoliations, and vitamin-based peels;
 - l. Pretreatments and posttreatments for enzymes, herbal exfoliations, and vitamin-based peels;
 - m. Practical application and consultation for alpha hydroxy peels;
 - n. Indications and contraindications for alpha hydroxy peels;
 - o. General procedures and safety measures for alpha hydroxy peels;
 - p. Pretreatment and posttreatment for alpha hydroxy peels;
 - q. Practical application and consultation for beta hydroxy peels;
 - r. Indications and contraindications for beta hydroxy peels;
 - s. General procedures and safety measures for beta hydroxy peels;
 - t. Pretreatment and posttreatment for beta hydroxy peels;
 - u. Practical application and consultation for Jessner and Modified Jessner peels;
 - v. Indications and contraindications for Jessner and Modified Jessner peels;
 - w. General procedures and safety measures for Jessner and Modified Jessner peels;
 - x. Pretreatment and posttreatment for Jessner and Modified Jessner peels;
 - y. Practical application and consultation for trichloroacetic acid peels;
 - z. Indications and contraindications for trichloroacetic acid peels;
 - aa. General procedures and safety measures for trichloroacetic acid peels; and
 - bb. Pretreatment and posttreatment for trichloroacetic acid peels.
6. Lymphatic drainage - minimum of 120 hours of instruction.
- a. Introduction to lymphatic drainage;
 - b. Tissues and organs of the lymphatic system;
 - c. Functions of the lymphatic system;
 - d. Immunity;
 - e. Etiology of edema;
 - f. Indications and contraindications for lymphatic drainage;
 - g. Lymphatic drainage manipulations and movements;
 - h. Face and neck treatment sequence;
 - i. Lymphatic drainage on the trunk and upper extremities;
 - j. Lymphatic drainage on the trunk and lower extremities;
 - k. Cellulite;
 - l. Using lymphatic drainage with other treatments; and
 - m. Machine-aided lymphatic drainage.
- D. A licensed esthetics school with an approved esthetics program may conduct an assessment of a transfer student's competence in esthetics and, based on the assessment, give credit toward the requirements specified in subsection B of this section and 18VAC41-70-200 A. A licensed esthetics school with an approved master esthetics program may conduct an assessment of a transfer student's competence in master esthetics and, based on the assessment, give credit toward the requirements specified in subsection C of this section and 18VAC41-70-200 B.
- The school ~~shall~~ must make the assessment based on a review of the student's transcript, documentation of hours and performances provided to the student by the school [from where the student is transferring], and the successful completion of a ~~board-approved~~ competency examination administered by the school. The school may also request a copy of a catalog or bulletin giving the full course description when making the evaluation. The number of credit hours awarded ~~shall~~ must not exceed the actual hours of instruction verified on the transcript or the number of hours specified in the board-approved curriculum for a specific topic.
- ~~E. The instructor curriculum and hours of instruction shall consist of 400 hours or equivalent credit hours and shall include the following:~~
- ~~1. Orientation;~~
 - ~~2. Curriculum;~~
 - ~~3. Course outline and development;~~
 - ~~4. Lesson planning;~~
 - ~~5. Classroom management;~~
 - ~~6. Teaching techniques;~~
 - ~~7. Methods of instruction;~~
 - ~~8. Learning styles;~~
 - ~~9. Learning disabilities;~~

Regulations

- 10. Teaching aids;
- 11. Developing, administering, and grading examinations;
- 12. School administration;
- 13. Recordkeeping;
- 14. Laws and regulations;
- 15. Presentation of theoretical subjects;
- 16. Presentation of practical subjects;
- 17. Supervision of clinic floor; and
- 18. Practicum teaching.

18VAC41-70-200. Practical performance requirements.

A. The curriculum for estheticians ~~shall~~ must include the following minimum practical performances:

Consultations, cleansings and analysis of face and body	35
Manual facials and treatments	65
Machine or electrical facials and treatments	50
Body treatments and back treatments	20
Makeup	25
Hair Removal	25
TOTAL	220

B. The curriculum for master estheticians ~~shall~~ must include the following minimum performances:

Advanced treatments	40
Microdermabrasion	50
Chemical exfoliation	75
Lymphatic drainage treatments	50
TOTAL	215

18VAC41-70-210. School equipment. (Repealed.)

~~A. For an esthetics course, an esthetics school must have at least one treatment table, one magnifier lamp, one steamer, one adjustable stool, and one table for instruments and products for each two students enrolled in the class.~~

~~B. For each procedure taught in the esthetics curriculum, the esthetics school must have at least one set of the applicable equipment for each three students enrolled in the class.~~

~~C. For a master esthetics course, an esthetics school must have at least one treatment table, one woods lamp, one adjustable stool, and one table for instruments and products for each two students enrolled in the class.~~

~~D. For each procedure taught in the master esthetics curriculum, the esthetics school must have at least one set of~~

~~the applicable equipment for each six students enrolled in the class.~~

18VAC41-70-230. Records.

A. Schools ~~shall~~ must maintain on the premises of each school and available for inspection by the board or any of its agents the following records for the period of a student's enrollment through five years after the student's completion of the curriculum, termination, or withdrawal:

1. Enrollment application containing the student's signature and a two-inch by two-inch color head and shoulders photograph of the student;:
2. Daily record of attendance containing the student's signature;:
3. Student clock hours containing the student's signature and method of calculation;:
4. Practical performance completion sheets containing the student's signature;:
5. Final transcript;:
- ~~6. Competency examinations used to award credit;~~
- ~~7. 6.~~ Course descriptions;: and
- ~~8. 7.~~ All other relevant documents that account for a student's accrued clock hours and practical applications.

B. Schools ~~shall~~ must produce to the board or any of its agents, within 10 days of the request, any document, book, or record concerning any student, or for which the licensee is required to maintain records, for inspection and copying by the board or its agents. The board may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

C. Schools ~~shall~~ must, within 21 days upon receipt of a written request from a student, provide documentation of hours and performances completed by the student as required to be maintained by subsection A of this section.

D. Prior to a school changing ownership or a school closing, the school is required to provide to current students documentation of hours and performances completed.

~~E. For a period of one year after a school changes ownership, the school shall provide, within 21 days upon receipt of a written request from a student, documentation of hours and performances completed by a current student.~~

18VAC41-70-240. Reporting.

~~A. Schools shall~~ Each school must provide, in a manner, format, and frequency prescribed by the board, a roster of all current students and a roster of students who attended in the preceding six months prior to the reporting deadline student rosters to the board quarterly, no later than January 15, April 15, July 15, and October 15 of every year.

1. Each [school] must provide a roster of all enrolled students and a roster of students who attended in the preceding six months prior to the reporting deadline.

2. Students who are enrolled but have not begun classes must be included in the report.

~~B. Within 30 days of ceasing to operate, whether through dissolution or alteration of the business entity, the school shall provide a written report to the board on performances and hours of each of its students who has not completed the program. Rosters must be submitted via a secure link provided by the board on the board-supplied document, which will include the student's full name, date of birth, program type, date enrolled, the total number of hours to date, and the date completed, terminated, or withdrawn.~~

C. Schools with no students enrolled, but with the intention of operating, must submit a report to that effect.

D. Schools with no students enrolled that no longer wish to operate should terminate the license in accordance with this chapter.

18VAC41-70-250. Scope of practice.

A. Each licensed spa or school ~~shall~~ must ensure that no licensee or student performs any service beyond the scope of practice for the esthetician or master esthetician license.

B. For chemical exfoliation of the epidermis by a licensed master esthetician, the standards for use of an exfoliator or concentration of acids ~~shall will~~ be:

1. Jessner and Modified Jessner solution;
2. Trichloroacetic acid less than 20%;
3. Nonprescriptive alpha hydroxyl acids;
4. Nonprescriptive beta hydroxyl acids;
5. Nonprescriptive, commercially available products used in accordance with manufacturer's written instructions;
6. Vitamin-based acids;
7. Enzymes; or
8. Herbal exfoliators.

18VAC41-70-260. Display of license.

A. ~~[Each The responsible management for each]~~ licensed spa or school ~~shall~~ must ensure that all current licenses and [temporary licenses certificates] issued by the board ~~shall be~~ are displayed in plain view of the public either in the reception area or at individual work stations of the spa or school. Duplicate licenses ~~[or temporary licenses and certificates]~~ shall must be posted in a ~~like~~ similar manner in every spa or school location where the [licensee or temporary license holder regulant] provides services.

B. ~~[The responsible management for each spa or school must ensure that no employee, licensee, student, or apprentice performs any service beyond the scope of practice for the applicable license.~~

C.] All licensees and [temporary license certificate] holders ~~shall must~~ operate under the name in which the license or temporary license is issued.

~~[C. D.] All Proof of apprenticeship cards registration issued by the applicable agency of the Virginia Department of Labor and Industry (DOLI) shall Workforce Development Advancement (VDWDA) must be displayed in plain view of the public either in the reception area or at individual work stations of the shop or salon spa. The apprentice sponsor shall must require each apprentice to wear a badge clearly indicating his status as a DOLI VDWDA registered apprentice.~~

18VAC41-70-270. Sanitation and safety standards for spas and schools.

A. Sanitation and safety standards.

1. Any spa or school where esthetics services are delivered to the public must be clean and sanitary at all times.

2. Mobile spas must be stationary while providing services and may not operate where prohibited by local ordinance.

~~2.~~ 3. Compliance with these rules does not confer compliance with other requirements set forth by federal, state, and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health.

~~3.~~ 4. Licensees ~~shall~~ must take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation standards identified in this section and ~~shall must~~ ensure that all employees likewise comply.

B. Disinfection and storage of implements.

1. ~~A Each esthetician and master esthetician must have a wet disinfection unit available for use and must meet the standards in the definition of wet disinfection requirements is a container large enough to hold a disinfectant solution in which the objects to be disinfected are completely immersed. A wet disinfection unit must have a cover to prevent contamination of the solution. The solution must be a U.S. Environmental Protection Agency (EPA) registered disinfectant that is bactericidal, virucidal, and fungicidal. Disinfectant solutions shall any disinfection solutions must be used according to manufacturer's directions manufacturer instructions.~~

2. Disinfection of multiuse ~~items~~ implements constructed of hard, nonporous materials such as metal, glass, or plastic; that the manufacturer designed for use on more than one client; is to be carried out in the following manner prior to servicing a client:

Regulations

- a. Remove all foreign matter from the object, utilizing a brush if needed. ~~Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter;~~
- b. Wash thoroughly with hot water and soap;
- c. Rinse thoroughly with clean water and dry thoroughly with a clean paper towel;
- d. Fully immerse implements into wet disinfectant solution for a minimum of 10 minutes; and
- e. After immersion, rinse articles, dry thoroughly with a clean paper towel, and store in a clean, predisinfected, and dry cabinet, drawer, or ~~nonairtight~~ sealed covered container, or leave instruments in ~~an EPA-registered a wet disinfection storage solution unit~~ used according to manufacturer's directions.

3. Single-use items designed by the manufacturer for use on no more than one client should be discarded immediately after use on each individual client, including powder puffs, lip color, cheek color, sponges, styptic pencils, ~~or nail wood implements, chamois, skin care implements, or disposable razors.~~ The disinfection and reuse of these items is not permitted and the use of single-use items on more than one client is prohibited.

4. For the purpose of recharging, rechargeable tools or implements may be stored in an area other than in a closed cabinet or container. This area shall must be clean.

~~5. All materials including cosmetic and nail brushes, sponges, chamois, spatulas, and galvanic electrodes must be cleaned with warm water and soap or detergent to remove all foreign matter. Implements should then be rinsed, thoroughly dried with a clean paper towel, and completely immersed in an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly, and stored in a predisinfected and dry drawer, cabinet, or nonairtight covered container, or left in an EPA-registered disinfection storage solution used according to manufacturer's directions.~~

~~6. 5.~~ All wax pots shall must be cleaned and disinfected with an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal with no sticks left standing in the wax at any time. The area immediately surrounding the wax pot shall must be clean and free of clutter, waste materials, spills, and any other items that may pose a hazard.

~~7. Each esthetician must have a wet disinfection unit at his station.~~

~~8. Nail brushes; nippers; finger bowls; disinfectable or washable buffers; disinfectable or washable files, which must also be scrubbed with a brush to remove all foreign matter; and other instruments must be washed in soap and water, rinsed, dried thoroughly with a clean paper towel, and then completely immersed in an EPA-registered disinfectant~~

~~that is bactericidal, virucidal, and fungicidal for 10 minutes after each use. After disinfection they must be rinsed, dried thoroughly with a clean paper towel, and placed in a dry, predisinfected, nonairtight covered receptacle, cabinet, or drawer, or left in an EPA-registered disinfectant storage system used according to manufacturer's directions.~~

~~9. 6.~~ Sinks, bowls, tubs, whirlpool units, air-jetted basins, pipe-less units, and non-whirlpool basins ~~used in~~ necessitated by the performance of nail skin care ~~shall~~ services must be maintained in accordance with manufacturer's recommendations. They ~~shall~~ must be cleaned and disinfected immediately after each client in the following manner:

- a. Drain all water and remove all debris;
- b. Clean the surfaces and walls with soap or detergent to remove all visible debris, oils, and product residues and then rinse with water;
- c. Disinfect by spraying or wiping the surface with an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal in accordance with manufacturer directions; and
- d. Wipe dry with a clean towel.

C. General sanitation and safety requirements.

1. Service chairs, workstations and workstands, and back bars shall must be clean;

2. The floor surface in all work areas must be of a washable surface other than carpet. ~~The floor must be kept clean and free of debris, nail clippings, dropped articles, spills, clutter, trash, electrical cords, other waste materials, and other items that may pose a hazard;~~

3. All furniture, fixtures, walls, floors, windows, and ceilings shall must be in good repair and free of water seepage and dirt. All mats shall must be secured or ~~shall~~ lie flat;

4. A fully functional bathroom with a working toilet and sink must be available for clients. There must be hot and cold running water. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. There must be soap and clean single-use towels or a hand air-drying device for the client's use. For facilities newly occupied after January 1, 2017, the bathroom shall must be ~~maintained exclusively available for client use or shared with other businesses in the same building. If the bathroom is shared, the bathroom shall be available for client use and within 200 feet of the entrance~~ and must adhere to all sanitation requirements of this chapter;

~~5. General areas for client use must be neat and clean with a waste receptacle for common trash;~~

~~6. 5.~~ Electrical cords shall must be placed to prevent entanglement by the client or licensee and electrical outlets shall must be covered by plates;

~~7.~~ 6. All sharp tools, implements, and heat-producing appliances ~~shall~~ must be in safe working order at all times, safely stored, and placed so as to prevent any accidental injury to the client or licensee;

~~8.~~ 7. The spa area ~~shall~~ must be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals and to allow the free flow of air; and

~~9.~~ 8. Adequate lighting ~~shall~~ must be provided.

D. Articles, tools, and products.

1. Any multiuse article, tool, or product that cannot be cleansed or disinfected is prohibited from use;

2. Soiled implements must be removed from the tops of work stations immediately after use;

3. Clean spatulas, other clean tools, or clean disposable gloves ~~shall~~ must be used to remove bulk substances from containers;

4. Any multiuse article, tool, or product that cannot be disinfected by full immersion as specified in 18VAC41-70-270 B 2 or cleaned according to manufacturer's recommendation, including natural hairbrushes or neck dusters, is prohibited from use;

~~4.~~ 5. Lotions, ointments, creams, and powders ~~shall~~ must be accurately labeled and kept in closed containers. A clean spatula ~~shall~~ must be used to remove creams or other products from jars. Sterile cotton or sponges ~~shall~~ must be used to apply creams, lotions, and powders. Cosmetic containers ~~shall~~ must be covered after each use;

~~5.~~ 6. All appliances ~~shall~~ must be safely stored;

~~6.~~ 7. Presanitized tools and implements, linens, and equipment ~~shall~~ must be stored for use in a sanitary enclosed cabinet or covered receptacle;

~~7.~~ 8. Clean towels, robes, or other linens ~~shall~~ must be used for each patron. Clean towels, robes, or other linens ~~shall~~ must be stored in a clean predisinfected and dry cabinet, drawer, or nonairtight covered container. Soiled towels, robes, or other linens ~~shall~~ must be stored in a container enclosed on all sides, including the top, except if stored in a separate laundry room;

~~8.~~ 9. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator ~~shall~~ may be used to check bleeding; and

~~9.~~ 10. Any disposable material making contact with blood or other body fluid ~~shall~~ must be double-bagged, labeled as a biohazard, and disposed of in a ~~sealed plastic bag and removed from the spa or school in accordance with the guidelines of the Virginia Department of Health and OSHA (Occupational Safety and Health Administration) closed receptacle.~~

E. Chemical storage and emergency information.

1. Spas and schools ~~shall~~ must have in the immediate working area a binder with all Safety Data Sheets (SDS) provided by manufacturers for any chemical products used;

2. Spas and schools ~~shall~~ must have a blood spill clean-up kit in the work area that contains, at a minimum, latex gloves, two 12-inch by 12-inch towels, one disposable trash bag, bleach, one empty spray bottle, and one mask with face shield or any ~~OSHA-approved~~ Occupational Safety and [Health Health] Administration (OSHA) approved blood spill clean-up kit;

3. Flammable chemicals ~~shall~~ must be labeled and stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (e.g., oxidizers, catalysts, and solvents) ~~shall~~ must be labeled and separated in storage.

F. Client health guidelines.

1. All employees providing client services ~~shall~~ must cleanse their hands with a soap product prior to providing services to each client;

2. All employees providing client services ~~shall~~ must wear gloves while providing services when exposure to bloodborne pathogens is possible;

3. No spa or school providing esthetics services ~~shall~~ will have on the premises esthetics products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in esthetics products;

4. No product ~~shall~~ will be used in a manner that is disapproved by the FDA; and

5. Esthetics spas must be in compliance with current building and zoning codes.

G. In addition to the requirements set forth in this section, all licensees and temporary license holders ~~shall~~ must adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational and Safety Division of the Virginia Department of Labor and Industry.

H. All spas and schools ~~shall~~ must immediately report the results of any inspection of the spa or school by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

I. All spas and schools ~~shall~~ must conduct a self-inspection on an annual basis and maintain a self-inspection form on file for five years so that it may be requested and reviewed by the board at its discretion.

18VAC41-70-280. Grounds for license or certificate revocation, ~~probation, or suspension, or probation;~~ denial of application, renewal or reinstatement; or imposition of a monetary penalty.

Regulations

The board may, in considering the totality of the circumstances, ~~fine any licensee, certificate holder, or temporary license holder; suspend, place on probation, revoke, or refuse to issue, renew, or reinstate any a license, or certificate, or temporary license; or deny any application impose a monetary penalty; place a license or certificate on probation with such terms and conditions and for such time as it may designate; suspend a license or certificate for a stated period of time; or revoke a license or certificate issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and this chapter if the board finds that the licensee, certificate holder, permit temporary license holder, or applicant:~~

1. Is incompetent, negligent, or ~~incapable mentally or physically~~ unable, as those terms are generally understood in the profession, to skillfully and safely (i) practice as an esthetician or (ii) operate a spa or school;
2. Is convicted of fraud or deceit in the practice or teaching of esthetics or master esthetics, fails to teach in accordance with the board-approved curriculum as provided for in this chapter, or fails to comply with 18VAC41-70-190 D when making an assessment of credit hours awarded;
3. Attempts to obtain, or has obtained, renewed, or reinstated a license, certificate, or temporary license by false or fraudulent representation;
4. Violates, induces others to violate, or cooperates with others in violating any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any esthetician may practice or offer to practice;
5. Offers, gives, or promises anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of ~~his~~ the employee's duties, any federal, state, or local law, regulation, or ordinance governing esthetics or master esthetics;
6. Fails to respond to the board or any of its agents or provides false, misleading, or incomplete information to an inquiry by the board or any of ~~its~~ the board's agents;
7. Fails or refuses to allow the board or any of its agents to inspect during reasonable hours any licensed spa or school for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or this chapter;
8. Fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's, certificate holder's, temporary license holder's, applicant's, or ~~owner's~~ responsible management's possession or maintained in accordance with this chapter;

9. Fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license, certificate, or temporary license;

10. Makes any misrepresentation or publishes or causes to be published any advertisement that is false, deceptive, or misleading;

11. Fails to notify the board in writing within 30 days of ~~the suspension, revocation, or surrender of a license or temporary license in connection with a~~ any final or disciplinary action taken against a license, registration, certificate, or temporary license in any jurisdiction ~~or of any license or temporary license that has been the subject of disciplinary action in any jurisdiction~~ by a local, state, or national regulatory body;

12. Has been convicted or found guilty, regardless of the manner of adjudication, in Virginia or any other jurisdiction of the United States of [~~a misdemeanor involving moral turpitude, 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 purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt;~~

13. Fails 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 convictions as stated in subdivision 12 of this section;

14. Allows, as responsible management of a spa ~~or school~~, a person who has not obtained a license or a temporary ~~permit~~ license to practice, unless the person is duly enrolled as a registered apprentice;

15. Allows, as responsible management of a school, a person who has not obtained an instructor certificate or student instructor temporary license to practice as an esthetics or a master esthetics instructor;

16. Fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with sanitary requirements provided for in this chapter or any local, state, or federal law or regulation governing the standards of health and sanitation for the practices of esthetics or master esthetics or the operation of esthetics spas; or

17. Fails to comply with all procedures established by the board and the testing service with regard to conduct at any board examination.

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 (18VAC41-70)

~~Esthetician – Esthetics Instructor Examination and License Application, A450-1261_62EXLIC-v17 (eff. 5/2022)~~

~~Master Esthetician – Master Esthetics Instructor Examination and License Application, A450-1264_65EXLIC-v18 (eff. 5/2022)~~

[Esthetician – Esthetics Instructor Examination and License Application, A450-1261_62EXLIC-v20 \(eff. 12/2025\)](#)

[Master Esthetician – Master Esthetics Instructor Examination and License Application, A450-1264_65EXLIC-v22 \(eff. 12/2025\)](#)

[Temporary License Application, A450-1213TEMP-vs4 \(eff. 8/2024\)](#)

~~License by Endorsement Application, A450-1213END-v20 (rev. 8/2025)~~

[License by Endorsement Application, A450-1213END-v21 \(rev. 12/2025\)](#)

[Training Verification Form, A450-1213TR-vs1 \(eff. 5/2022\)](#)

[Individuals – Reinstatement Application, A450-1213REI-v16 \(rev. 8/2025\)](#)

~~Salon, Shop, Spa, and Parlor License and Reinstatement Application, A450-1213BUS-v19 (rev. 8/2025)~~

[Salon, Shop, Spa, and Parlor License and Reinstatement Application, A450-1213BUS-v20 \(rev. 12/2025\)](#)

[Salon, Shop, and Spa Self-Inspection Form, A450-1213_SSS_INSP-vs2 \(eff. 5/2016\)](#)

~~Instructor Certification Application, A450-1213INST-v21 (rev. 8/2025)~~

~~School License Application, A450-1213SCHL-v23 (rev. 8/2025)~~

~~School Reinstatement Application A450-1213SCHL-REIN-v12 (rev. 8/2025)~~

[Instructor Certification Application, A450-1213INST-v22 \(rev. 12/2025\)](#)

[School License Application, A450-1213SCHL-v24 \(rev. 12/2025\)](#)

[School Reinstatement Application A450-1213SCHL-REIN-v13 \(rev. 12/2025\)](#)

[School Self-Inspection Form, A450-1213SCH_INSP-vs5 \(eff. 1/2022\)](#)

[Licensure Fee Notice, A450-1213FEE-v13 \(rev. 8/2025\)](#)

[Change of Responsible Management, A450-1213CRM-v6 \(eff. 12/2021\)](#)

[Experience Verification Form, A450-1261_64EXP-v2 \(eff. 2/2023\)](#)

[Esthetics and Master Esthetics Universal License Application, A450-1261-65ULR-v3 \(rev. 8/2025\)](#)

[Student Instructor Temporary Permit Application, A450-1213ST_TEMP-v5 \(rev. 12/2025\)](#)

[Change of Instructor Application, A450-1213SCI-v1 \(eff. 12/2025\)](#)]

VA.R. Doc. No. R24-7715; Filed September 26, 2025, 3:34 p.m.

BOARD OF HEALTH PROFESSIONS

Final Regulation

REGISTRAR'S NOTICE: The Board of Health Professions 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: 18VAC75-11. Public Participation Guidelines (repealing 18VAC75-11-10 through 18VAC75-11-110).

18VAC75-20. Regulations Governing Practitioner Self-Referral (repealing 18VAC75-20-10 through 18VAC75-20-140).

18VAC75-40. Regulations Governing the Criteria for Certification of Dialysis Technicians (repealing 18VAC75-40-10, 18VAC75-40-20, 18VAC75-40-30).

Statutory Authority: § 54.1-2412 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Kelli Moss, Executive Director, Board of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4216, fax (804) 977-1955, or email kelli.moss@dhp.virginia.gov.

Summary:

Pursuant to Chapter 341 of the 2025 Acts of Assembly, which eliminates the Board of Health Professions and transfers certain powers and duties from the board to the Department of Health Professions, the board itself and all

Regulations

the board's current regulatory chapters are being repealed. Two regulations, Regulations Governing Practitioner Self-Referral and Regulations Governing the Criteria for Certification of Dialysis Technicians, are being moved under the authority of the department for regulation by other regulatory boards under the department.

VA.R. Doc. No. R26-8371; Filed September 22, 2025, 11:34 a.m.

DEPARTMENT OF HEALTH PROFESSIONS

Final Regulation

REGISTRAR'S NOTICE: The Department of Health Professions 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 department will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: 18VAC76-50. Regulations Governing Practitioner Self-Referral (adding 18VAC76-50-10 through 18VAC76-50-80).

18VAC76-60. Regulations Governing the Criteria for Certification of Dialysis Technicians (adding 18VAC76-60-10, 18VAC76-60-20, 18VAC76-60-30).

Statutory Authority: §§ 54.1-2410 and 54.1-2505 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, fax (804) 915-0382, or email erin.barrett@dhp.virginia.gov.

Summary:

Pursuant to Chapter 341 of the 2025 Acts of Assembly, which eliminates the Board of Health Professions and transfers certain powers and duties from the board to the Department of Health Professions, the department is moving Regulations Governing Practitioner Self-Referral and Regulations Governing the Criteria for Certification of Dialysis Technicians into the department's regulatory catalog without substantive changes to ensure statutory duties once performed by the board will continue to be performed by other boards within the department.

Chapter 50

Regulations Governing Practitioner Self-Referral

Part I

General Provisions

18VAC76-50-10. Definitions.

Statutory definitions of words and terms related to the

Practitioner Self-Referral Act are established in § 54.1-2410 of the Code of Virginia.

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

"Act" means the Practitioner Self-Referral Act, Chapter 24.1 (§ 54.1-2410 et seq.) of Title 54.1 of the Code of Virginia.

"Applicant" means a practitioner or entity who has applied to the board for an advisory opinion on the applicability of the Act, or for an exception to the prohibitions of the Act.

"Appropriate regulatory board" means the regulatory board within the Department of Health Professions that licenses or certifies the practitioner.

"Committee" means an informal conference committee of a regulatory board.

"Department" means the Department of Health Professions.

"Director" means the Director of the Department of Health Professions.

Part II

Advisory Opinions and Exceptions

18VAC76-50-20. Application for advisory opinions.

A. Any practitioner or entity may request an advisory opinion on the applicability of the Act upon completion of an application and payment of a fee.

B. Requests shall be made on an application form prescribed by the department. The request shall contain the following information:

1. The name of the practitioner or entity;
2. Identification of the practitioner or entity and description of the health care services being provided or proposed;
3. The type and amount of existing or proposed investment interest in the entity;
4. A description of the nature of the investment interest and copies of any existing or proposed documents between the practitioner and the entity, including leases, contracts, and organizational documents; and
5. Certification and notarized signature of the practitioner or principal of the entity requesting the advisory opinion that the information and supporting documentation contained within it is true and correct.

C. The application shall be reviewed for completeness, and the department may request such other additional information or documentation the department deems necessary from the practitioner or entity.

D. Upon a determination that a request for an advisory opinion is complete and that it has sufficient information, the

department shall notify the practitioner or entity that the department will consider the practitioner or entity's request.

E. At the conclusion of an informal conference, the department shall issue an advisory opinion to the practitioner or entity.

18VAC76-50-30. Application for exception.

A. A practitioner or entity may request an exception to the prohibitions of the Act upon completion of an application and payment of a fee.

B. Requests shall be made on an application form prescribed by the department. The application shall contain the following information:

1. The name and identifying information of the practitioner or entity;
2. The information and documentation regarding community need and alternative financing as required by § 54.1-2411 B of the Code of Virginia; and
3. Certification and notarized signature of the practitioner or principal of the entity requesting the exception that the information contained in the application and supporting documentation is true and correct.

C. The application shall be reviewed for completeness, and the department may request additional information and documentation from the applicant.

D. Upon a determination that an application is complete and that it has sufficient information, the department shall notify the applicant that the department will consider the request.

E. At the conclusion of an informal conference, the department shall issue a decision regarding the request for an exception to the applicant.

F. Exceptions to the Act shall be valid for a period of no more than five years.

G. An exception shall be renewed upon payment of a renewal fee and the receipt of certification from the practitioner or entity that the conditions under which the original exception was granted continue to warrant the exception.

18VAC76-50-40. Fees.

A. An application fee for an opinion on applicability of the Act shall be \$500.

B. An application fee for an exception to the Act shall be \$1,000.

C. The renewal fee for board approval of exceptions to the Act shall be \$250.

Part III **Discipline**

18VAC76-50-50. Disciplinary action against entities.

The department shall determine violations of prohibitions of the Act on the part of an entity other than a practitioner as defined in § 54.1-2410 of the Code of Virginia in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC76-50-60. Disciplinary action against practitioners.

A. Upon receipt of an investigative report of an alleged violation of the Act by a practitioner as defined in § 54.1-2410 of the Code of Virginia, the director shall provide a copy of the report to the appropriate regulatory board.

B. Violations of the Act by a practitioner shall be determined by the appropriate regulatory board within the department and shall be subject to disciplinary action by that regulatory board in accordance with § 54.1-2412 D of the Code of Virginia.

C. Upon closure of a case involving an alleged violation of the Act by a practitioner, the appropriate regulatory board shall provide a copy of the final order or of the letter of dismissal of the case to the director.

D. The director shall review periodically the disposition of cases involving allegations of violation of the Act by practitioners to ensure the protection of the public and the fair and equitable treatment of health professionals.

18VAC76-50-70. Decision to delegate.

The director may delegate an informal conference to an agency subordinate to consider an application for an advisory opinion or an exception to the provisions of the Act.

18VAC76-50-80. Criteria for an agency subordinate.

An agency subordinate authorized by the director to conduct an informal conference may include current or past members of regulatory boards and professional staff or other persons deemed knowledgeable by virtue of their training and experience in the organizational structure of entities providing the health care services identified in the application.

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 (18VAC76-50)

[Application for an Exception to the Prohibitions of the Virginia Practitioner Self-Referral Act \(rev. 9/2025\)](#)

[Application for an Advisory Opinion - Virginia Self-Referral Act \(rev. 9/2025\)](#)

Regulations

Chapter 60

Regulations Governing the Criteria for Certification of Dialysis Technicians

18VAC76-60-10. Definitions.

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

"Dialysis patient care technician" or "dialysis care technician" means a person who has obtained certification from an organization approved by the director to provide, under the supervision of a licensed practitioner of medicine or a registered nurse, direct care to patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility. Such direct care may include the administration of heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers in accordance with the order of a licensed physician, nurse practitioner, or physician assistant.

"Director" means the Director of the Department of Health Professions.

18VAC76-60-20. General provisions; scope of practice.

A. In accordance with Chapter 27.01 (§ 54.1-2729.1 et seq.) of Title 54.1 of the Code of Virginia and this chapter, only those persons who hold certification from an entity approved by the director as prescribed in 18VAC76-60-30 shall:

1. Provide direct patient care in a Medicare-certified renal dialysis facility.
2. Administer medications in accordance with § 54.1-3408 T of the Code of Virginia.

B. Dialysis patient care technicians or dialysis care technicians shall practice only under the supervision of a licensed practitioner of medicine or a registered nurse.

C. Dialysis patient care technicians or dialysis care technicians shall administer medications only under the orders of a licensed physician, nurse practitioner, or physician assistant and under the direct and immediate supervision of a registered nurse.

D. Persons who do not hold such certification shall not hold the restricted titles or use any other title or term that implies a minimum level of education, training, and competence. Unregulated persons shall only perform services relating to the technical elements of dialysis, such as equipment maintenance and preparation of dialyzers for reuse by the same patient.

18VAC76-60-30. Criteria for use of the titles of dialysis patient care technician or dialysis care technician.

In order to use the titles of dialysis patient care technician or dialysis care technician or administer medications in a

Medicare-certified renal dialysis facility, a person shall hold one of the certifications approved by the director.

V.A.R. Doc. No. R26-8372; Filed September 23, 2025, 10:41 a.m.

BOARD OF PHARMACY

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

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

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC110-20)

[Application for a Pharmacy Permit \(rev. 1/2024\)](#)

[Application for a Nonresident Pharmacy Registration \(rev. 1/2024\)](#)

[Application for a Nonresident Wholesale Distributor Registration \(rev. 4/2024\)](#)

[Application for Registration as Nonresident Manufacturer \(rev. 10/2020\)](#)

[Application for a Nonresident Third-Party Logistics Provider Registration \(rev. 4/2024\)](#)

[Application for Registration as a Nonresident Warehouser \(rev. 10/2020\)](#)

[Application for a Nonresident Outsourcing Facility Registration \(rev. 10/2020\)](#)

[Application for an Outsourcing Facility Permit \(rev. 10/2020\)](#)

[Application for a Medical Equipment Supplier Permit \(rev. 10/2020\)](#)

[Application for a Permit as a Restricted Manufacturer \(rev. 10/2020\)](#)

[Application for a Permit as a Nonrestricted Manufacturer \(rev. 10/2020\)](#)

[Application for a Wholesale Distributor Permit \(rev. 4/2024\)](#)

[Application for a Permit as a Warehouser \(rev. 10/2020\)](#)

[Application for a Permit as a Third-Party Logistics Provider \(rev. 4/2024\)](#)

[Application for Registration as a Nonresident Medical Equipment Supplier \(rev. 10/2020\)](#)

[Application for a Controlled Substances Registration Certificate \(rev. 8/2024\)](#)

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

[Closing of a Pharmacy \(rev. 9/2025\)](#)

[Application for Approval of an Innovative \(Pilot\) Program \(rev. 8/2023\)](#)

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

[Application for Approval of a Repackaging Training Program \(rev. 10/2020\)](#)

[Registration for a Facility to be an Authorized Collector for Drug Disposal \(rev. 5/2018\)](#)

[Application for Reinspection of a Facility \(rev. 3/2023\)](#)

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

[Staffing Requests or Concerns Form \(eff. 9/2023\)](#)

VA.R. Doc. No. R26-8471; Filed September 18, 2025, 8:51 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Final Regulation

REGISTRAR'S NOTICE: The Department of Professional and Occupational Regulation 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 department will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC120-40. Virginia Professional Boxing and Wrestling Events Regulations (amending 18VAC120-40-150, 18VAC120-40-420).

Statutory Authority: § 54.1-831 of the Code of Virginia and 15 USC § 6301 et seq.

Effective Date: November 19, 2025.

Agency Contact: Kathleen R. Nosbisch, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, fax (866) 465-6206, or email boxing@dpor.virginia.gov.

Summary:

Pursuant to Chapters 95 and 111 of the 2025 Acts of Assembly, the amendments (i) replace a requirement that a ringside physician be licensed by the Virginia Board of Medicine with a citation to § 54.1-829 of the Code of

Virginia, which establishes the qualifications for approval as a ringside physician; and (ii) extend the deadline for promoters to submit verified reports and pay gate fees to two weeks following the completion of an event.

18VAC120-40-150. Requirements for approval of ringside physicians.

To qualify to act on the department's behalf as a ringside physician, an applicant must provide evidence of ~~(i) licensure by the Virginia Board of Medicine as a physician and (ii) a current certification in cardiopulmonary resuscitation or osteopathic medicine~~ that the applicant meets the requirements for a ringside physician specified in § 54.1-829 of the Code of Virginia.

18VAC120-40-420. Reporting, verification, and payment of gate fees.

A. No person, except for members of a local police department or rescue squad on duty covering the event, officials, event staff, promoters and participants may be admitted to the event without a ticket.

B. Each ticket, except those for the working press, officials, employees, and official photographers, shall have the price, name of the promoter, date, and place of the event printed plainly on it.

C. No promoter shall sell a ticket at a price other than the price that appears on the ticket.

D. No promoter shall change a ticket price or the place or date of the event without the approval of the department.

E. Tickets of different prices shall be printed in different colors.

F. The promoter shall permit the inspector to check the number and location of ticket boxes at the gate, ensure that the ticket boxes are sealed and padlocked, and open the ticket boxes and count the tickets after the event.

G. Each ticket issued to the press shall be marked "press."

H. A maximum of 2.0% of the tickets to an event may be complimentary.

I. Each complimentary ticket shall be marked complimentary.

J. The promoter shall provide to the department, prior to the commencement of an event at which admission is charged, a manifest or report on the number, kind, and price of tickets printed for the contest.

K. Each ticket shall be separated from the stub when entering through the gate. No person shall occupy a seat without a stub.

L. Each promoter shall furnish to the department, within ~~24 hours~~ two weeks after the completion of each event, a written and verified report on the form provided by the department showing the number of tickets sold, unsold, and given away, the amount of the proceeds donated to a charitable organization

Regulations

that is tax exempt under § 501(c)(3) of the Internal Revenue Code, and the amount of gross proceeds thereof for such events originating in the Commonwealth. The report shall also include the total gross proceeds from the sale of rights to distribute in any manner such event by any video, telephonic, or other communication method involving the control of electrons or other charge carriers for such live events originating in the Commonwealth.

M. The promoter shall pay the department, within the same ~~24-hour~~ two-week period, a fee of (i) 5.0% of the first \$100,000 of its total gross receipts and (ii) 2.5% of the remainder of its total gross proceeds. These fees shall not be reduced for portions of an event containing amateur matches as set forth in 18VAC120-40-10.

N. The department or its contractor may examine or cause to be audited the records and accounts of the promoter.

VA.R. Doc. No. R26-8383; Filed September 23, 2025, 8:51 a.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Final Regulation

Title of Regulation: 24VAC30-21. General Rules and Regulations of the Commonwealth Transportation Board (amending 24VAC30-21-10, 24VAC30-21-20, 24VAC30-21-50; repealing 24VAC30-21-30, 24VAC30-21-40).

Statutory Authority: § 33.2-210 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Jo Anne Maxwell, Director, Governance and Legislative Affairs, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, or email joanne.maxwell@vdot.virginia.gov.

Summary:

The amendments (i) update definitions, (ii) combine 24VAC30-21-20 and 24VAC30-21-30, (iii) update cross-references, (iv) remove duplicative requirements, (v) clarify restrictions on activities occurring on bridges that form a part of the system of state highways, and (vi) expand exemptions for highway maintenance vehicles or vessels to include fire and law-enforcement vehicles or vessels.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

24VAC30-21-10. Definitions.

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

indicates otherwise:

"Board" means the Commonwealth Transportation Board.

~~"Commissioner" means the Commissioner of Highways, the individual who serves as the chief executive officer of the Virginia Department of Transportation (VDOT) or his designee.~~

~~"Commonwealth" means the Commonwealth of Virginia.~~

~~"Right-of-way" means that property within the entire area of every way or place of whatever nature within the system of state highways under the ownership, control, or jurisdiction of the board or VDOT that is open or is to may be opened within the future for the use of the public for purposes of travel for public travel or use or both in the Commonwealth. This definition includes those rights-of-way in which the Commonwealth has a prescriptive easement for maintenance and public travel. The area set out above includes not only property within a right-of-way includes the traveled portion but the entire area within and without the traveled portion, from boundary line to boundary line, and also all way and associated boundary lines and the area in between, the subsurface below and area above the property, parking and recreation areas that are under the ownership, control, or jurisdiction of the board or VDOT, rest and service areas, and other permanent easements for a specific purpose appurtenant to the right-of-way.~~

"System of state highways" means all highways ~~and~~ roads, streets, and trails under the ownership, control, or jurisdiction of the board VDOT, including, ~~but not limited to~~, the primary, secondary, and interstate systems.

"VDOT" means the Virginia Department of Transportation; ~~the Commissioner of Highways, or a designee.~~

24VAC30-21-20. General provisions concerning permits and use of right-of-way.

A. No work, occupancy, or nontransportation uses of any nature ~~shall~~ may be allowed or performed on the system of state highways or any real property under the ownership, control, or jurisdiction of the board or VDOT, including, ~~but not limited to~~, the right-of-way of any highway in the system of state highways, until written permission is first obtained from VDOT. Written permission ~~under this section~~ is granted by way of permit. ~~In addition, pursuant to 24VAC30-151 or by the letting of a contract by and between VDOT or the board and any other party, which automatically grants to that party automatically~~ such permission for the area under contract, unless otherwise stated in the contract. VDOT is authorized to establish specific requirements for such permits, including, ~~but not limited to~~, permit authority, application procedure, and conditions under which a permit may be denied or revoked.

~~B. No land use permit shall be issued until the applicant has complied with the conditions set forth in and pursuant to~~

applicable VDOT regulations filed as part of the Virginia Administrative Code.

~~C. Applicants to whom permits are issued shall at all times indemnify and save harmless the board, members of the board, the Commonwealth, and all Commonwealth employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privileges granted by these permits.~~

~~D. B. Any structure placed upon or within the right-of-way right-of-way pursuant to a permit issued by VDOT or otherwise shall be relocated or removed whenever ordered by VDOT. Such relocation or removal shall be accomplished at no expense to the Commonwealth unless VDOT agrees or has agreed otherwise.~~

C. The following restrictions apply to activities occurring on bridges forming a part of the system of state highways:

1. No person may fish or seine from any bridge except when facilities are provided for such purposes as set out in § 33.2-278 of the Code of Virginia.

2. No person may use any bridge as a wharf from which to load or unload a vehicle, as a place of deposit of property, or for any other purpose except crossing.

3. No master or owner of a vessel may make it fast to or lay it alongside such bridge.

4. Provisions of this subsection shall not apply to highway maintenance vehicles or vessels or fire and law-enforcement vehicles or vessels.

D. No person may, without the consent of VDOT, remove, injure, destroy, break, deface, or in any way tamper with property, real or personal, that is growing or has been placed on the right-of-way by or with the consent of VDOT.

E. No person may cause water to flow from any source upon the right-of-way, cause an increase of the water at present lawfully on the right-of-way, or concentrate the flow of water upon the right-of-way without the written consent of VDOT.

F. No road, railroad, or tracks of any description may be laid along, upon, or across any portion of a highway in the system of state highways without the written consent of VDOT.

24VAC30-21-30. General provisions concerning use of right of way. (Repealed.)

~~A. No person, firm, or corporation shall use or occupy the right of way of any highway for any purpose except travel, except as may be authorized by VDOT, either pursuant to regulation or as provided by law.~~

~~B. Except as permitted by subdivision 2 of this subsection, the following restrictions apply to activities occurring on bridges forming a part of the system of state highways:~~

~~1. No person, firm, or corporation shall stand or park a vehicle of any description on any bridge unless authorized by VDOT.~~

~~2. No person shall fish or seine from any bridge except when facilities are provided for such purposes as set out in § 33.2-278 of the Code of Virginia.~~

~~3. No person, firm, or corporation shall use any bridge as a wharf from which to load or unload any vehicle, as a place of deposit for any property, or for any other purpose except crossing.~~

~~4. No master or owner of any vessel shall make it fast to or lay it alongside such bridge.~~

~~5. Provisions of this subsection shall not apply to highway maintenance vehicles or vessels.~~

~~C. No person, firm, or corporation shall, without the consent of VDOT, remove, injure, destroy, break, deface, or in any way tamper with any property, real or personal, that is growing or has been placed on the right of way of any highway within the system of state highways by or with the consent of VDOT.~~

~~D. No person, firm, or corporation may cause water to flow from any source upon the right of way of any highway within the system of state highways, nor shall any person, firm, or corporation cause any increase of the water, at present, lawfully on the right of way of any highway or concentrate the flow of water upon the right of way of any highway in the system of state highways without the written consent of VDOT.~~

~~E. No road, railroad, or tracks of any description shall be laid along, upon, or across any portion of a highway in the system of state highways without the written consent of VDOT.~~

24VAC30-21-40. Board authority to regulate entrances from adjacent property to right of way of highways within the state highway system. (Repealed.)

~~The board, under § 33.2-210 of the Code of Virginia, reserves the power to regulate entrances from adjacent property upon the right of way of any highway within the system of state highways. No entrance of any nature shall be made, built, or constructed upon the right of way of any highway within the system of state highways until the location has been determined in the opinion of the commissioner or designee of VDOT to be acceptable from a public safety standpoint and, further, until approval has been granted by VDOT. The design and construction of such entrances as approved by the commissioner pursuant to §§ 33.2-241 and 33.2-245 of the Code of Virginia must comply with VDOT's regulations where applicable.~~

24VAC30-21-50. Placement of airport or heliport facilities.

~~No airport runways, heliports, or similar facilities, either private or commercial, shall may be placed adjacent to highway rights of way rights-of-way in such a manner as to~~

Regulations

impede the safe flow of vehicular traffic. Runways or similar facilities shall be placed a proper distance to allow a minimum glide slope for aircraft of 3° approaching said runway, or at a height over the roadway of 30 feet, whichever is greater. All airports or heliports, ~~or both,~~ proposed in the vicinity of highway ~~rights-of-way~~ rights-of-way shall take these minimum road clearances into consideration when planning the location of the end of their runways.

VA.R. Doc. No. R25-7999; Filed September 19, 2025, 7:29 a.m.

Final Regulation

Title of Regulation: 24VAC30-151. Land Use Permit Regulations (amending 24VAC30-151-10 through 24VAC30-151-50, 24VAC30-151-80, 24VAC30-151-90, 24VAC30-151-110, 24VAC30-151-240, 24VAC30-151-260, 24VAC30-151-270, 24VAC30-151-300 through 24VAC30-151-360, 24VAC30-151-380, 24VAC30-151-390, 24VAC30-151-400, 24VAC30-151-420, 24VAC30-151-430, 24VAC30-151-450, 24VAC30-151-460, 24VAC30-151-490, 24VAC30-151-500, 24VAC30-151-520, 24VAC30-151-550 through 24VAC30-151-580, 24VAC30-151-600, 24VAC30-151-620, 24VAC30-151-630, 24VAC30-151-670, 24VAC30-151-690 through 24VAC30-151-740; repealing 24VAC30-151-120, 24VAC30-151-220, 24VAC30-151-230, 24VAC30-151-280, 24VAC30-151-290, 24VAC30-151-440, 24VAC30-151-590, 24VAC30-151-760).

Statutory Authority: § 33.2-210 of the Code of Virginia.

Effective Date: November 19, 2025.

Agency Contact: Jo Anne P. Maxwell, Agency Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, fax (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

Summary:

As a result of a periodic review, the amendments (i) remove the requirement that single use permits not be for a length greater than two miles; (ii) potentially increase insurance cost for some permittees by specifying that permittees must maintain comprehensive general liability insurance with limits of at least \$1 million per occurrence and \$5 million in the aggregate, or in amounts otherwise required by the Virginia Department of Transportation (VDOT) and stated in the permit; (iii) increase the number of permittees that must assume full responsibility for all damages caused by improperly installed facilities and for the continuing maintenance of installed facilities by expanding this responsibility from permits related to utilities to all permittees; (iv) strengthen the indemnification and hold harmless language for the Commonwealth; (v) provide an option for suspension of a permit as an alternative to revocation; (vi) no longer require special permits for several activities; (vii) reduce refunds by no longer refunding any part of application fees for permits canceled prior to the

beginning of the permitted activity; (viii) allow the VDOT central office permit manager to authorize unlimited time extensions at the full cost of the permit fee for each two-year term; and (ix) remove certain documents incorporated by reference from the regulation to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits.

Changes to the proposed regulation (i) add "broadband" as a separate entry in the definition of "utility"; (ii) extend the flexibility granted utility providers to broadband providers; and (iii) encourage applicants to submit work of a continuous nature along one route, or connected routes within one jurisdiction, in one permit application regardless of length.

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.

24VAC30-151-10. Definitions.

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

"Backfill" means replacement of suitable material compacted as specified around and over a pipe, conduit, casing, or gallery.

"Boring" means a method of installation that is done underground and by which a carrier or casing is jacked through an oversize bore. The bore is carved progressively ahead of the leading edge of the advancing pipe as soil is forced back through the pipe. Directional drilling, coring, jacking, ~~etc., and~~ other similar trenchless digging methods are also considered boring.

"Carrier" means a pipe directly enclosing a transmitted liquid or gas.

"Casing" means a larger pipe enclosing a carrier.

~~"Central Office Permit Manager~~ office permit manager" means the VDOT employee assigned to provide management, oversight, and technical support for the ~~state-wide~~ VDOT land use permit program.

"Chief Engineer" means the VDOT employee in overall supervision of engineering functions for VDOT or that employee's designee.

"Clear zone" means the total border area of a roadway, including, ~~if any,~~ parking lanes or planting strips, that is sufficiently wide for an errant vehicle to avoid a serious accident. ~~Details on the clear zone are in VDOT's Road Design Manual (see 24VAC30-151-760).~~

~~"Code of Federal Regulations" or "CFR" means the regulations promulgated by the administrative and regulatory agencies of the federal government.~~

"Commercial entrance" means any entrance ~~serving land uses other than two or fewer individual private residences, agricultural operations to obtain access to fields, or civil and communication infrastructure facilities that generate 10 or fewer trips per day such as cell towers, pump stations, and stormwater management basins. (See "private entrance.")~~ other than a private entrance.

"Commissioner of Highways" means the individual serving as the chief executive officer of the Virginia Department of Transportation or a designee.

~~"Commonwealth" means the Commonwealth of Virginia.~~

"Conduit" means an enclosed tubular runway for carrying wires, cable, or fiber optics.

"Cover" means the depth of the top of a pipe, conduit, or casing below the grade of the roadway, ditch, or natural ground.

"Crossing" means any utility facility that is installed across the roadway, either perpendicular to the longitudinal axis of the roadways or at a skew of no less than 60 degrees to the roadway centerline.

"District administrator" means the VDOT employee assigned the overall supervision of the departmental operations ~~in~~ for one of the Commonwealth's nine VDOT's construction and maintenance districts.

"District administrator's designee" means the VDOT employee assigned by the district administrator to supervise land use permit activities ~~by the district administrator.~~

"District roadside manager" means the VDOT employee assigned to provide management, oversight, and technical support for ~~district-wide~~ districtwide vegetation program activities.

"Drain" means an appurtenance to discharge liquid contaminants from casings.

"Encasement" means a structural element surrounding a pipe.

"Erosion and sediment control" means the control of soil erosion or the transport of sediments caused by the natural forces of wind or water.

"Grounded" means connected to earth or to some extended conducting body that serves instead of the earth, whether the connection is intentional or accidental.

"Highway," "street," or "road" means a public way for purposes of vehicular travel, including the entire area within the right-of-way.

"Limited access highway" means a highway especially designed for through traffic, over which abutters have no easement or right of light, air, or access by reason of the fact that their property abuts upon such limited access highway.

"Longitudinal installations" means any utility facility that is installed parallel to the centerline of the roadway or at a skew of less than 60 degrees to the roadway centerline.

~~"Manhole" means an opening in an underground system that workers or others may enter for the purpose of making installations, inspections, repairs, connections and tests.~~

"Median" means the portion of a divided highway that separates opposing traffic flows.

~~"Nonbetterment~~ Non-betterment cost" means the cost to relocate an existing facility as is with no improvements.

"Permit" means a document that, in conjunction with the laws of the Commonwealth, sets the requirements, terms, and conditions under which VDOT allows ~~its~~ a right-of-way to be used or changed by a permittee.

"Permit agreement" means an agreement supplementary to a permit that sets out additional conditions for the enjoyment of the permit that have been agreed to by the permittee and VDOT.

"Permittee" means the person ~~or persons,~~ firm, corporation, entity, or government entity that has been issued a ~~land use~~ permit.

"Pipe" means a tubular product or hollow cylinder made for conveying materials.

"Pole line" means poles or a series or line of supporting structures, such as towers, cross arms, ~~guys~~ guy wires, racks (conductors), ground wires, insulators, and other materials assembled and in place for the purpose of transmitting or distributing electric power or communication, signaling, and control. It includes appurtenances such as transformers, fuses, switches, grounds, regulators, instrument transformers, meters, equipment platforms, and other devices supported by poles.

~~"Power line" means a line for electric power or communication services.~~

"Pressure" means relative internal pressure in pounds per square inch gauge (psig).

"Private entrance" means an entrance that serves up to two private residences and is used for the exclusive benefit of the occupants of those residences or an entrance that allows agricultural operations to obtain access to fields or an entrance to civil ~~and~~ or communication infrastructure facilities that generate 10 or fewer trips per day, such as cell towers, pump stations, and stormwater management basins.

"Professional engineer" means a person who is qualified to practice engineering by reason of ~~his~~ special knowledge and use of mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and experience, and whose competence has been attested by the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified

Regulations

Interior Designers and Landscape Architects through licensure as a professional engineer.

"Relocate" means to move or reestablish existing facilities.

"Right-of-way" means that property within the system of state highways that is open or may be opened for public travel or use or both in the Commonwealth. This definition includes those ~~public~~ rights-of-way in which the Commonwealth has a prescriptive easement for maintenance and public travel. The property within a right-of-way includes the travel way and associated boundary lines and the area in between, the subsurface below and air above the property, parking and recreation areas, rest and service areas, and other permanent easements for a specific purpose appurtenant to the right-of-way.

"Roadside" means the area adjoining the outer edge of the roadway. The median of a divided highway may also be considered a "roadside."

"Roadway" means the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

"Service connections" means any utility facility installed overhead or underground between a distribution main, pipelines, conduits, lines, wires, or other sources of supply and the premises of the individual customer.

"Shared resource agreement" means an agreement or permit allowing one or more utilities to occupy the limited access right-of-way consistent with the requirements of 24VAC30-151-30 and 24VAC30-151-740.

"Site plan" means the engineered or surveyed drawings depicting proposed development of land.

"Storm sewer" means the system containing and conveying roadway drainage.

"Stormwater management" means the engineering practices and principles used to intercept stormwater runoff, remove pollutants, and slowly release the runoff into natural channels to prevent downstream flooding.

"Structure" means that portion of the transportation facility that spans space, supports the roadway, or retains soil. This definition includes, ~~but is not limited to~~, bridges, tunnels, drainage structures, retaining walls, sound walls, signs, and traffic signals, ~~etc.~~

"System of state highways" means all highways, streets, and roads under the ownership, control, or jurisdiction of VDOT, including ~~but not limited to~~, the primary, secondary, and interstate systems.

"Telecommunication service" means the offering of telecommunications for a fee directly to the public or to privately owned, ~~investor-~~ investor-owned, or cooperatively owned entities.

"Transportation project" means a ~~public~~ project in development or under construction to provide a new public transportation facility or to improve or maintain the existing system of state highways.

"Traveled way" means the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

"Trenched" means installed in a narrow, open excavation.

"Underground utility facilities" means any item of public or private property placed below ground or submerged for use by the utility.

"Utility" means a privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing telecommunications, cable television, [broadband,] electricity, gas, oil, petroleum products, water, steam, ~~storm water~~ stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system.

"VDOT" means the Virginia Department of Transportation ~~or the Commissioner of Highways~~.

"Vent" means an appurtenance to discharge gaseous contaminants from a casing or carrier pipe.

"Wetlands" means those areas that are inundated or saturated by surface or ~~ground water~~ groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wireless support structure agreement" means a permit agreement, a shared resource agreement, or a permit complying with the requirements of Chapter 15.1 (§ 56-484.26 et seq.) of Title 56 of the Code of Virginia concerning the construction of wireless support structures, communication pedestals, nodes, and amplifiers.

24VAC30-151-20. Authority.

The General Rules and Regulations of the Commonwealth Transportation Board (~~see 24VAC30-151-760~~ 24VAC30-21) are adopted pursuant to the authority of § §§ 2.2-1151.1, 33.2-118, 33.2-210, 33.2-240, 33.2-241, 33.2-245, 33.2-266, 33.2-338, 33.2-357, 56-458, 56-460, 56-484.28, 56-484.30, 56-484.31, and 56-484.32 of the Code of Virginia, and in accordance with the Virginia Administrative Process Act (Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia). These rules and regulations provide that no work or nontransportation uses of any nature shall be allowed or performed on the system of state highways or any right-of-way or real property under the ownership, control, or jurisdiction of VDOT until written permission has been obtained from VDOT. Real property includes, ~~but is not limited to~~, the right-of-way ~~of any highway in~~ and the system of state highways

system. Written permission is granted either by permit pursuant to this chapter or a state-authorized contract let by VDOT or the Commonwealth Transportation Board. ~~By issuing a permit, VDOT is giving permission only for A permit grants the permittee only those rights set forth in the permit and only to the extent of whatever rights it VDOT has in the right-of-way; the.~~ The permittee is responsible for obtaining permission from others who may also have an interest in the property or right-of-way and for satisfying all other applicable legal requirements, whether federal, state, or local. Employees of VDOT are authorized to issue permits only as described in this chapter. This chapter prescribes the specific requirements of such permits.

24VAC30-151-30. Permits Types of permits and permit agreements.

~~A. The following shall apply to all authorized use or occupancy of the right-of-way:~~

- ~~1. A permit is required for any type of utility activity occurring within the right-of-way.~~
- ~~2. A permit is required to install any entrance onto a state highway.~~
- ~~3. A permit is required to perform surveying operations within the right-of-way.~~
- ~~4. A permit is required for any agricultural and commercial use and occupancy of the right-of-way.~~
- ~~5. A permit is required for any miscellaneous activity or use of the right-of-way except for mailboxes and newspaper boxes (see 24VAC30-151-560) and public service signs (see 24VAC30-151-570).~~

~~B. A.~~ Single use permits. A single use permit allows the permittee to perform any approved specific activities within limited access or nonlimited access right-of-way or VDOT property at a specific location that are not otherwise covered by a districtwide permit held by the permittee within limited access and nonlimited access rights of way at a specific location.

The district administrator's designee shall be responsible for the issuance of all single use permits, except that ~~those~~ requests for a permit for tree trimming and tree removal may be issued by the district roadside manager in consultation with the district administrator's designee. The size of the specific location covered by a single use permit shall be at the discretion of the district administrator's designee and may cover work up to two miles along the right-of-way (see 24VAC30-151-40). The land use permit issued for the original installation of facilities also allows the permittee to repair or perform routine maintenance operations to existing those facilities after installation. A single use permit shall be required when obtained prior to the undertaking of the following actions are proposed, even if the activities being conducted are normally may be allowed under a districtwide permit:

1. Stopping or impeding highway travel in excess of 15 minutes or implementing traffic control that varies from the standard, or any combination of these, as outlined in the Virginia Work Area Protection Manual Standards for Use of Traffic Control Devices to Classify, Designate, Regulate, and Mark State Highways (see 24VAC30-151-760 24VAC30-315).
2. Performing work within limited access right-of-way.
3. Trimming or cutting any trees located within the right-of-way.
4. Applying any pesticide or landscaping within the right-of-way.
5. Construction of a permanent entrance to a state highway.
6. Cutting or disturbing highway pavement, shoulders, or ditches.
7. Installing electrical lines that exceed 34.5 kV.
8. Installing telecommunication services that exceed 100-pair copper cable or the fiber-optic cable diameter equivalent.
9. Making permanent upgrades to an existing entrance. Temporary improvements to an existing entrance that will be removed upon the completion of the permitted activity will not require a separate single use permit.
10. Grading within the right-of-way beyond the immediate area of a temporary entrance.

~~C. B.~~ Districtwide permits. A districtwide permit allows the permittee to perform multiple occurrences of certain activities on nonlimited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. VDOT may authorize districtwide permits covering multiple districts (see 24VAC30-151-710).

~~The following is a list of acceptable activities under the jurisdiction of districtwide permits:~~

1. Utilities.
 - a. ~~Districtwide permits may be issued granting cities, towns, counties, public agencies, or utility companies the authority to install and maintain service connections to their existing main line facilities. Work under a districtwide permit will allow the permittee to install a service connection across a nonlimited access primary or secondary highway above or below ground, provided the installation can be made from the side of the roadway without impeding travel for more than 15 minutes to pull or drop a service line across a highway, and provided no part of the roadway pavement, shoulders and ditch lines will be disturbed. The installation of parallel utility service connections, not to exceed 500 feet in length, shall be placed along the outer edge of the right of way with a~~

Regulations

minimum of 36 inches of cover. Telecommunications and cable television service connections may be placed with a minimum of 18 inches of cover; however the permittee assumes full responsibility for any and all damages caused by VDOT or VDOT contractors resulting from a service connection buried with less than 30 inches of cover within the right of way.

~~A districtwide permit allows for the overlapping of telecommunication lines onto existing lines or strand.~~

~~b. A separate single use permit will be required when the following activities associated with the installation and maintenance of utility service connections are proposed:~~

~~(1) Cutting highway pavement or shoulders, or both, to locate underground utilities.~~

~~(2) Working within the highway travel lane on a nonemergency basis.~~

~~(3) Constructing a permanent entrance.~~

~~(4) Installing electrical lines that exceed 34.5 KV.~~

~~(5) Installing telecommunication services that exceed 100 pair copper cable or the fiber optic cable diameter equivalent.~~

~~(6) Installing new pole, anchors, parallel lines, or casing pipe extensions to existing utilities where such installation necessitates disturbance to the pavement, shoulder, or ditch line.~~

~~(7) Installing underground telephone, power, cable television, water, sewer, gas, or other service connections or laterals where the roadway or ditch lines are to be disturbed.~~

~~c. The installation of parallel utility service connections, not to exceed 500 feet in length, shall be placed along the outer edge of the right of way with a minimum of 36 inches of cover. Telecommunications and cable television service connections may be placed with a minimum of 18 inches of cover; however the permittee assumes full responsibility for any and all damages caused by VDOT or VDOT contractors resulting from a service connection buried with less than 30 inches of cover within the right of way.~~

~~d. A districtwide permit allowing the installation and maintenance of utility service connections may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit or any of the requirements of this chapter, including but not limited to any, all, or a combination of the following:~~

~~(1) The permittee shall implement all necessary traffic control in accordance with the Virginia Work Area Protection Manual (see 24VAC30-151-760). When warranted, the appropriate Regional Traffic Engineer should be consulted to select or tailor the proper traffic control devices. Each flag person must be certified by VDOT and carry a certification card when flagging traffic~~

~~and have it readily available for inspection when requested by authorized personnel.~~

~~(2) The permittee shall not perform any activity under the jurisdiction of a districtwide permit that requires the issuance of a single use permit.~~

~~e. The permittee must obtain single use permits from the district administrator's designee to continue the installation and maintenance of utility service connections during this revocation period.~~

2. Temporary logging entrances.

~~a. Districtwide permits may be issued for the installation, maintenance, and removal of temporary entrances onto nonlimited access primary and secondary highways for the purpose of harvesting timber.~~

~~b. A separate single use permit is required when the following activities associated with timber harvesting operations are proposed:~~

~~(1) Installing a permanent entrance.~~

~~(2) Making permanent upgrades to an existing entrance. Improvements to existing entrances that are not permanent upgrades will not require a separate single use permit.~~

~~(3) Cutting pavement.~~

~~(4) Grading within the right of way beyond the immediate area of the temporary entrance.~~

~~c. A logging entrance permit may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit or any of the requirements of this chapter, including but not limited to any, all, or a combination of the following:~~

~~(1) The permittee shall implement all necessary traffic control in accordance with the Virginia Work Area Protection Manual (see 24VAC30-151-760). When warranted, the appropriate district traffic engineer should be consulted to select or tailor the proper traffic control measures. Each flag person must be certified by VDOT and carry a certification card and have it available for inspection upon request by authorized VDOT personnel.~~

~~(2) The permittee shall contact the appropriate district administrator's designee prior to installing a new logging entrance or initiating the use of an existing entrance for logging access.~~

~~(3) The permittee shall contact the appropriate district administrator's designee for final inspection upon completion of logging activities and closure of the temporary entrance.~~

~~(4) The permittee shall restore all disturbed right of way at the temporary entrance, including but not limited to ditches, shoulders, and pavement, to pre activity condition subject to acceptance by the appropriate district administrator's designee.~~

(5) The permittee shall remove excessive mud and any debris that constitutes a hazardous condition from the highway pursuant to a request from the appropriate district administrator's designee. Noncompliance may also result in the issuance of a separate citation from the Virginia State Police or a local law enforcement authority.

(6) The permittee shall not perform any activity under the jurisdiction of a districtwide permit that requires the issuance of a single use permit.

d. The permittee must obtain single use permits from the appropriate district administrator's designee to continue accessing state maintained highways for the purpose of harvesting timber during this revocation period.

3. Surveying.

a. Districtwide permits may be issued for surveying operations on nonlimited access primary and secondary highways subject to the following:

(1) No trees are to be trimmed or cut within the right-of-way.

(2) No pins, stakes, or other survey markers that may interfere with mowing operations or other maintenance activities are to be placed within the right-of-way.

(3) No vehicles shall be parked so as to create a traffic hazard. Parking on through lanes is strictly prohibited.

b. A separate single use permit is required when the following surveying activities are proposed:

(1) Entering onto limited access right-of-way. Consideration for the issuance of such permits will be granted only when the necessary data cannot be obtained from highway plans, monuments, triangulation, or any combination of these, and the applicant provides justification for entry onto the limited access right-of-way.

(2) Stopping or impeding highway travel in excess of 15 minutes or varying the implementation of standard traffic control, or any combination of these, as outlined in the Virginia Work Area Protection Manual (see 24VAC30-151-760).

(3) Trimming or cutting any trees located within the right-of-way.

(4) Cutting highway pavement or shoulders to locate underground utilities.

c. A districtwide permit for surveying activities may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit or any of the requirements of this chapter, including but not limited to any, all, or a combination of the following:

(1) The permittee shall implement all necessary traffic control in accordance with the Virginia Work Area Protection Manual (see 24VAC30-151-760). When warranted, the appropriate Regional Traffic Engineer should be consulted to select or tailor the proper traffic control devices. Each flag person must be certified by

VDOT and carry a certification card when flagging traffic and have it readily available for inspection when requested by authorized personnel.

(2) The permittee shall not perform any activity under the jurisdiction of a districtwide permit that requires the issuance of a single use permit.

d. The permittee must obtain single use permits from the district administrator's designee to continue surveying activities during this revocation period.

1. Utility service connections. Districtwide permits may be issued granting cities, towns, counties, public agencies, or utility providers the authority to install and maintain service connections to existing main line facilities. Work under a districtwide permit will allow the permittee to install a service connection across a nonlimited access primary or secondary highway above ground or below ground, provided the installation can be made from the side of the roadway without impeding travel for more than 15 minutes to pull or drop a service line across a highway and provided that no part of the roadway pavement, shoulders, or ditch lines will be disturbed. The installation of longitudinal utility service connections, not to exceed 500 feet in length, may be accomplished under a districtwide permit upon satisfaction of the following conditions: (i) the service connection shall be placed along the outer edge of the right-of-way, (ii) the service connection shall have a minimum of 36 inches of cover, and (iii) an as-built plan of such longitudinal installation shall be provided to the district administrator's designee. Notwithstanding the provisions of this subdivision, [broadband,] telecommunications [,] and cable television service connections may be placed with a minimum of 18 inches of cover, provided the permittee accepts and assumes full responsibility and liability for all damages caused by VDOT, VDOT contractors, or third parties disturbing a service connection buried with less than 30 inches of cover within the right-of-way. A districtwide permit allows for the overlying of telecommunication lines onto existing lines or strands, unless such overlying activities trigger the requirements for utilizing a single use permit.

2. Temporary logging entrances. Districtwide permits may be issued for the installation, maintenance, and removal of temporary entrances onto nonlimited access primary and secondary highways for the purpose of harvesting timber. The permittee shall contact the appropriate district administrator's designee (i) prior to installing a new logging entrance or initiating the use of an existing entrance for logging access and (ii) for final inspection upon completion of logging activities and closure of the temporary entrance. The permittee shall remove excessive mud and any debris that constitutes a hazardous condition from the highway at the permittee's sole cost upon a request from the district administrator's designee.

Regulations

3. Surveying. Districtwide permits may be issued for surveying operations on nonlimited access primary and secondary highways if such activity does not involve (i) tree trimming or cutting within the right-of-way; (ii) the installation of pins, stakes, or other survey markers that may interfere with mowing operations or other maintenance activities within the right-of-way; or (iii) the parking of vehicles so as to create a traffic hazard. Parking on the traveled way is strictly prohibited.

~~D. C.~~ In-place permits. In-place permits allow utilities to remain within the right-of-way of newly constructed secondary streets. These utilities shall be installed according to ~~VDOT approved~~ VDOT-approved street plans and shall be in place prior to VDOT street acceptance.

~~E. D.~~ Prior-rights permits. Prior-rights permits allow ~~existing utilities with existing facilities within the right-of-way to remain in place that as long as those facilities are not in conflict with a transportation improvements authorized under the auspices of a land-use permit project or other use of the right-of-way by the public or the Commonwealth.~~

~~F. E.~~ As-built permits. ~~Agreements for the relocation of utilities found to be in~~ Utility facilities required to be relocated within a right-of-way due to a conflict with a transportation project or other use of the right-of-way by the public or the Commonwealth may stipulate that be issued an as-built permit will be issued upon completion of the project and the mutual agreement between VDOT and the utility for such relocation.

~~G. F.~~ Agreements. In addition to obtaining a single use permit, a utility may be required to enter an agreement with VDOT allowing the utility to use the limited access right-of-way in exchange for monetary compensation, the mutually agreeable exchange of goods or services, or both.

1. ~~Permit agreement.~~ A permit ~~An agreement is required for:~~
- ~~Any new longitudinal occupancy of the limited access right-of-way or median where none have existed before, as allowed for in 24VAC30-151-300 and 24VAC30-151-310.~~
 - ~~Any new communication tower or small site facilities installed within the right of way, as allowed for in 24VAC30-151-350 occupancy of a VDOT-owned wireless support structure.~~
 - ~~Any perpendicular crossing of limited access right of way, as allowed for in 24VAC30-151-310.~~

All ~~permit~~ agreements shall specify the terms and conditions required in conjunction with work performed within the right-of-way. ~~If appropriate, all agreements~~ Agreements shall provide for the payment of monetary compensation as may be in the amount deemed proper appropriate by the Commissioner of Highways for the privilege of utilizing the right-of-way.

2. ~~Shared resource agreement.~~ A ~~Consistent with the requirements of 24VAC30-151-740, a shared resource agreement allows the utility one or more utilities to occupy the limited access right-of-way in exchange for the each such utility providing the needed VDOT facility or a combination of goods, facilities, services, or monetary compensation to VDOT. VDOT~~ The Commissioner of Highways and the each such utility will agree upon the appropriate goods, facilities, or services to be provided and will establish, the length of the term that will be compensated through the infrastructure needs, and compensation through the provision of a particular service, facility, or monetary compensation, or both a combination thereof. Any shared resource agreement shall also provide for compensation as may be deemed proper appropriate by the Commissioner of Highways in any renewal term. The shared resource agreement shall specify the initial and renewal terms of the lease.

G. Notwithstanding the provisions of this section, no permit shall be required for placement of mailboxes and newspaper boxes in accordance with 24VAC-30-151-560 and placement of certain signs in accordance with 24VAC-30-151-570.

24VAC30-151-40. General rules, regulations, and requirements.

A. ~~A land-use permit is valid only on highways and rights-of-way right-of-way under VDOT's jurisdiction and on VDOT-owned property. This permit neither implies nor grants otherwise. County and city permits must be secured for work on roads and streets under their the county or city jurisdictions. A land-use permit covers the actual performance of work within highway rights-of-way right-of-way and the subsequent maintenance, adjustments, or removal of the work as approved by the central office permit manager or the district administrator's designee. Permits for communications facility towers may only be issued by the Commissioner of Highways. The Commissioner of Highways Chief Engineer shall approve all activities within limited access right-of-way prior to permit issuance. All permits shall be issued to A permit must be obtained by the owner of the facility to be used or located within highway rights-of-way right-of-way or VDOT-owned property or the adjacent property owner in the case of entrance permits. Permits A permit may be issued jointly to the owner and his contractor as if the contractor is the owner's authorized agent. The applicant permittee and the permit's contractors and agents shall comply with all applicable federal, state, county and municipal and local laws and requirements. The terms of every permit include and incorporate by reference this chapter as well as all federal, state, and local requirements applicable to a permittee's activities under the permit.~~

B. Application shall be made for a ~~district-wide~~ districtwide permit through the central office permit manager and for single use permits ~~from~~ through the district administrator's designee responsible for the county where the work is to be performed.

The applicant shall submit site plans or sketches for proposed installations within the right-of-way to VDOT for review, with studies necessary for approval. VDOT may require electronic submission of these documents. [Where Applicants are encouraged to submit] work [is] of a continuous nature along one route, or [on several connected] routes within one jurisdiction, [it may be consolidated] into one permit application [regardless of length]. ~~For single use permits, such consolidation shall not be for a length greater than two miles.~~ The applicant shall also submit any required certifications for staff performing or supervising the work, and certification that applicable stormwater management requirements are being met. The plans shall include the ultimate development and also any applicable engineering design requirements. VDOT retains the authority to deny an application for or revoke a land use permit to ensure the safety, use, or maintenance of the highway right-of-way, or in cases where a law has been violated relative to the permitted activity.

C. ~~The proposed installation granted by this permit~~ permittee shall be constructed exactly as shown on the permit or accompanying sketch. Distances from edge of pavement, existing and proposed right-of-way line, depths below existing and proposed grades, depths below ditch line or underground drainage structures, or other features shall be shown. Any existing utilities within close proximity of the permittee's work shall be shown. Location of poles, guys, pedestals, relief valves, vent pipes, etc. shall be shown. Height of wires or cables above the crown of the roadway shall be shown. comply with the terms of the permit. The permittee shall construct and use each facility proposed to be used or installed pursuant to a permit exactly as shown on the approved permit application, including:

1. Showing distances from edge of pavement, existing and proposed right-of-way lines, depths below existing and proposed grades, depths below ditch line or underground drainage structures, or other features.
2. Showing any existing utilities within close proximity of the applicant's proposed work or use.
3. Showing the location of poles, guy wires, pedestals, relief valves, vent pipes, and other equipment or structures.
4. Showing the height of wires or cables above the crown of the roadway.

D. In the event of an emergency situation that requires immediate action to protect persons or property, work may proceed within the right-of-way without authorization from the district administrator's designee; however, the permittee must contact the VDOT Emergency Operations Center as soon as reasonably possible but no later than 48 hours after the end of the emergency situation.

E. ~~The land use~~ permit is not valid unless signed by the central office permit manager or the district administrator's designee.

F. ~~The permittee shall secure and carry sufficient~~ maintain commercial general liability insurance to protect against liability for personal injury and property damage that may arise from the work performed in connection with all activities undertaken under the authority of a land use permit and from the operation of the permitted activity. Comprehensive general liability insurance with limits of at least \$1 million per occurrence and \$5 million aggregate or in amounts otherwise required by VDOT as stated in the permit shall be maintained at all times. Insurance must be obtained prior to start of permitted work and shall remain valid through the permit completion date. The central office permit manager or the district administrator's designee may require a valid certificate ~~or letter~~ of insurance or policy documents from the issuing insurance agent or agency prior to issuing ~~the land use~~ a permit.

G. The permittee assumes full responsibility for all damages caused by facilities installed or uses undertaken under a permit. The permittee must make every effort to install facilities in a manner to preclude the possibility of damage.

H. The permittee is responsible for the continued maintenance of facilities placed within a right-of-way.

I. VDOT and the Commonwealth shall be absolved from all responsibilities, damages, and liabilities associated with granting the permit and the permittee's activities in the right-of-way, including activities performed by the permittee's contractors or agents. All facilities shall be placed and maintained in a manner to preclude the possibility of damage to VDOT-owned VDOT-owned facilities or other facilities placed within the highway right-of-way by permit. A permittee shall indemnify and hold harmless the Commonwealth, the Commonwealth Transportation Board, the Commissioner of Highways, VDOT, and the consultants, representatives, agents, and employees of those agencies from and against any and all claims, causes of action, losses, costs, attorney fees, expenses, and damages that directly or indirectly result from or arise out of the permittee's activities or violations in the right-of-way; from any of the permittee's contractors, subcontractors, consultants, representatives, agents, or employees; or from anyone for whom acts or violations the permittee is or may be liable. A permittee shall be civilly liable to the Commonwealth for all actual damage caused by a violation of the terms of a permit or this chapter [~~Injunctive remedies available to VDOT include providing private property access to VDOT to rectify concerns to public safety in the right of way caused by violations of the permit or this chapter~~].

H. J. A copy of the land use permit and approved site plans or sketches shall be maintained at every job site and such items made readily available for inspection when requested by VDOT or any authorized personnel. Strict adherence to the permit is required at all times. Any activity other than that described in the permit shall render the permit null and void.

Regulations

Any changes to the permit shall be coordinated and approved by the district administrator's designee prior to construction.

~~I. K.~~ For permit work within the limits of a ~~VDOT construction transportation~~ project, the ~~permittee applicant~~ must obtain the ~~contractor's~~ consent of the project's ~~general contractor~~ in writing before the permit will be issued. The permittee shall coordinate with VDOT and the project's ~~general contractor~~ and schedule all ~~permitted~~ work within the limits of a ~~VDOT construction transportation~~ project to avoid conflicts with ~~contracted~~ work ~~of the transportation project~~.

~~J. L.~~ All activity associated with the permit shall be in accordance with all federal, state, and local requirements and all applicable VDOT requirements, standards, and specifications and as otherwise required by the terms of the permit.

~~M.~~ Disturbances within the right-of-way shall be kept to a minimum during permitted activities. Permit applications for proposed disturbances within the right-of-way that include disturbance on property directly adjacent to the right-of-way, in which the combined area of disturbance constitutes a land-disturbing activity as defined in ~~§ 10.1-560 § 62.1-44.15:24~~ of the Code of Virginia and the Virginia Erosion and Stormwater Management Program (VSMP) Permit Regulations (see ~~24VAC30-151-760 Part II (9VAC25-875-40 et seq.)~~ of 9VAC25-875), must be accompanied by documented approval of erosion and sediment control plans and stormwater management plans ~~for the activity, if as applicable, from the corresponding jurisdictional local or state government plan approving authority.~~

~~K. N.~~ Restoration shall be made in accordance with VDOT ~~Road and Bridge Specifications; VDOT Road and Bridge Standards; Virginia Erosion and Sediment Control Handbook, 3rd Edition, a technical guide to the Erosion and Sediment Control Regulations; standards and specifications as set forth in the terms of the permit and the Virginia Stormwater Management Handbook, 1st edition, Volumes 1 and 2, a technical guide to the Virginia Stormwater Management Program (VSMP) Permit Regulations~~ (see ~~24VAC30-151-760 Part II of 9VAC25-875.~~

Additionally, the permittee shall:

1. Ensure compliance with the Virginia Erosion and Sediment Control Regulations and the Virginia Stormwater Management Program (VSMP) Permit Regulations Program (see ~~24VAC30-151-760 Part III (9VAC25-875-210 et seq.)~~ of 9VAC25-875).
2. Ensure copies of approved erosion and sediment control plans, stormwater management plans, if applicable, and all related non-VDOT issued permits are available for review and posted at every job site at all times.
3. Take all necessary precautions to ensure against siltation of adjacent properties, streams, ~~etc.~~ or other bodies of water

in accordance with VDOT's policies and standards as specified in the terms of the permit and the Virginia Erosion and Sediment Control Handbook, 3rd edition, and the Virginia Stormwater Management Manual (see 24VAC30-151-760) any applicable laws or regulations enforced by the State Water Control Board.

4. Keep dusty conditions to a minimum by using VDOT-approved methods.

5. Cut pavement only as approved by the district administrator's designee. Pavement cuts, restoration, and compaction efforts, to include all materials, shall be accomplished in accordance with VDOT ~~Road and Bridge Specifications~~ (see ~~24VAC30-151-760~~) specifications as set forth in the terms of the permit.

6. Ensure that an individual certified by VDOT in erosion and sediment control is present whenever any land-disturbing activity ~~governed by~~ under the permit is performed. All land disturbance activities performed under a ~~VDOT land use~~ permit shall be in accordance with all local, state, and federal ~~regulations requirements~~. The installation of underground facilities by a boring method shall only be deemed as a land-disturbing activity at the entrance and exit of the bore hole and not the entire length of the installation.

7. Stabilize all disturbed areas immediately upon the end of each day's work and reseed in accordance with VDOT ~~Road and Bridge Specifications~~ (see ~~24VAC30-151-760~~) specifications as set forth in the terms of the permit. Temporary erosion and sediment control measures shall be installed in areas not ready for permanent stabilization.

8. Ensure that no debris, mud, water, or other material is allowed on the highways. Permission, documented in writing or electronic communication, must be obtained from VDOT prior to placing excavated materials on the pavement. When so permitted, the pavement shall be cleaned only by approved VDOT methods.

~~L. O.~~ Accurate "as built" plans and profiles of work completed under permit shall be furnished to VDOT upon request, unless waived by the district administrator's designee. For utility permits, the owner shall maintain "as built" plans, profiles, and records for the life of the facility that describe the utility usage, size, configuration, material, location, height or depth, and special features, such as encasement.

~~M. P.~~ All work shall be performed in accordance with the Underground Utility Damage Prevention Act (Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia) and the Rules for Enforcement of the Underground Utility Damage Prevention Act (see ~~24VAC30-151-760 20VAC5-309~~). For work within 1,000 feet of traffic signals or adjacent to other VDOT utilities, the permittee shall contact the ~~district administrator's designee prior to excavation~~ VDOT Customer

Service Center. The permittee shall notify VDOT on the business day preceding 48 hours before excavation.

~~N. Q.~~ Permission, documented in writing or electronic communication, must be obtained from the district administrator's designee prior to blocking or detouring traffic. Additionally, the permittee shall:

- ~~1. Employ safety measures including, but not limited to, certified flaggers, adequate lights and signs.~~
- ~~2. Conduct all permitted activities in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and related special provisions (see 24VAC30-151-760) and the typical traffic control figures from the Virginia Work Area Protection Manual (see 24VAC30-151-760).~~
- ~~3. 1.~~ Plan construction and maintenance operations with regard to safety and minimum traffic interference.
- ~~4. 2.~~ Coordinate notification with all county or municipal officials.
- ~~5. 3.~~ Ensure that permitted work does not interfere with traffic during periods of peak flow on heavily traveled highways.
- ~~6. 4.~~ Plan work so that closure of intersecting streets, road approaches, and other access points is held to a minimum and as noted and approved in the permit documents.
- ~~7. 5.~~ Maintain safe access to all entrances and normal shoulder slope of the roadway across the entire width of the entrance.

~~O. All construction activities shall conform to Occupational Safety & Health Administration (OSHA) requirements.~~

~~P. R.~~ The permittee shall be responsible for any settlement in the backfill or pavement ~~for a period of two years~~ after the completion date of work activities under the permit, and ~~for the continuing maintenance of the facilities placed within the highway right-of-way. A one year restoration warranty period may be considered, provided the permittee adheres to the following criteria:~~ 1. The permittee retains the services of a professional engineer (or certified technician under the direction of the professional engineer) to observe the placement of all fill embankments, pavement, and storm sewer and utility trench backfill. 2. The professional engineer (or certified technician under the direction of the professional engineer) performs any required inspection and testing in accordance with all applicable sections of VDOT's Road and Bridge Specifications (see 24VAC30-151-760). 3. The professional engineer submits all testing reports for review and approval, and provides written certification that all restoration procedures have been completed in accordance with all applicable sections of VDOT's Road and Bridge Specifications (see 24VAC30-151-760) prior to completion of the work

~~authorized by the permit~~ or for any settlement caused by the installed facility.

~~Q. S.~~ The permittee shall immediately notify the ~~nearest VDOT official who approved the land use permit~~ district administrator's designee of involvement in any personal or vehicular accident at the work site.

~~R. T.~~ Stormwater management facilities or wetland mitigation sites shall not be located within VDOT rights-of-way unless the Commonwealth Transportation Board has agreed to participate in the use of a regional facility authorized by the local government. Stormwater management facilities or wetlands mitigation sites shall be designed and constructed to minimize impact within VDOT right-of-way. VDOT's share of participation in a regional facility will be the use of the right-of-way where the stormwater management facility or wetland mitigation site is located.

~~S. U.~~ The permittee shall notify, by telephone, ~~voice mail~~ voicemail message, or email, the VDOT office where the ~~land use~~ permit was obtained prior to commencement of the permitted activity or any nonemergency excavation within the right-of-way.

~~T. V.~~ Upon completion of the work under permit, the permittee shall provide notification, documented in writing or electronic communication, to the district administrator's designee requesting final inspection. This request shall include the permit number, ~~county name, route number,~~ and name of the party ~~or parties~~ to whom the permit was issued. The district administrator's designee shall ~~promptly~~ schedule an inspection of the work covered under the permit and advise the permittee of any necessary corrections. The permittee may not rely upon any act, statement, or failure to act on the part of VDOT with respect to inspection. The failure of VDOT to fully or properly inspect any work shall not excuse in any way the permittee from any of the permittee's duties or obligations under the permit, law, or regulation.

24VAC30-151-50. Violations of rules and regulations Objects in the right-of-way.

~~A.~~ Objects placed on, above, or under the right-of-way in violation of the general rules and regulations shall be removed within 10 calendar days of receipt of notice from VDOT. Objects not removed within 10 calendar days shall be moved at the owner's expense. Objects requiring immediate removal for public safety, use, or maintenance of any highway shall be moved immediately at the owner's expense. The provisions of § 33.2-1224 of the Code of Virginia shall govern the removal of advertisements from within the right-of-way. The provisions of § 33.2-1227 of the Code of Virginia shall govern the removal of other signs from within the right-of-way.

~~B.~~ The permittee will be civilly liable to the Commonwealth for expenses and damages incurred by VDOT as a result of violation of any of the rules and regulations of this chapter. ~~Violators shall be guilty of a misdemeanor and, upon~~

Regulations

conviction, shall be punished as provided for in § 33.2-210 of the Code of Virginia.

~~C. Failure to implement proper traffic control and construction standards mandated by the permit shall be cause for the district administrator's designee to remove the permittee from the right of way or revoke the permit, or both.~~

~~D. See 24VAC30-151-30 for violations related to specific district-wide permit types.~~

24VAC30-151-80. Permit time limits and cancellations.

A. The permittee shall provide an estimate of the number of days needed to accomplish the work or use under permit. The district administrator's designee shall determine the actual time limit of all work or uses being accomplished under permit, ~~which shall not normally be less than six months in duration.~~ Weather conditions and seasonal operations, such as seeding, and paving, ~~etc.~~, will be considered when determining a realistic time limit for work to be completed.

~~B. It shall be the responsibility of the permittee to ensure that the permitted activity will be completed within the time limit established with the original permit issuance.~~ If it is anticipated that the work or use covered by ~~the~~ a single use permit cannot be completed during the original permit term, the permittee shall provide a request, documented in writing or electronic communication, for an extension of time to the district administrator's designee prior to the expiration of the permit. The request shall provide reasonable justification for granting the extension. A one-time extension of time may be granted if the request is received at least 10 calendar business days prior to the ~~original~~ permit expiration date. Should the original time limit or the one-time permit extension expire, the permittee shall provide a written request for reinstatement to the district administrator's designee. The request shall provide reasonable justification for granting the reinstatement. At the time of reinstatement, the district administrator's designee shall notify the permittee that no additional extensions of the permit will be allowed and that the work must be completed within the time limits indicated in the reinstatement notice. Consideration will not be given to an extension request for a permit that has been reinstated after an extension.

C. The permittee shall make every effort to ensure that work begins within 30 calendar days of permit issuance. If the permitted work cannot commence within 30 calendar days of permit issuance, the permittee shall notify the district administrator's designee of the delay. Upon request by the permittee, the permit may be ~~cancelled~~ canceled if no work has started within 30 days of issuance or such additional time as authorized by the district administrator's designee.

24VAC30-151-90. Hours and days work authorized; holiday schedule.

A. Normal hours for work under the authority of a permit; single use or districtwide, are from 9 a.m. to 3:30 p.m. Monday

through Friday for all highways classified as arterial or collector. All highways classified as local roads will have unrestricted work hours and days.

~~Permitted nonemergency B. Nonemergency~~ work will not be allowed on arterial and collector highway classifications from noon on the preceding weekday through ~~the following all~~ state observed holidays: ~~New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.~~

C. If the observed holiday falls on a Monday, the permit nonemergency work will not be ~~valid~~ allowed from noon on the preceding Friday through noon on Tuesday. The district administrator's designee may establish alternate time restrictions in normal working hours and days for ~~single use~~ permits other than districtwide permits. The central office permit manager may establish alternate time restrictions in normal working hours and days for districtwide permits.

24VAC30-151-110. Denial; revocation; refusal to renew; violations.

A. A ~~land use~~ permit may be revoked or suspended upon written finding that the permittee or the permittee's contractors or agents have violated the terms or are in violation of any term of the a permit, which shall incorporate by reference these rules, as well as or of any federal, state and, or local laws and ordinances regulating activities within the right of way. Repeated violations may result in a permanent denial of the right to work within requirement applicable to work or use under a permit, or that the work or use affects the safety, use, or maintenance of the right-of-way. Any permit may be revoked and the facility for which it was issued required to be removed or relocated at the direction of the Commissioner of Highways if the facility or use obstructs or otherwise interferes with a transportation project or the safety, improvement, maintenance, or operation of a right-of-way. Unless otherwise specifically provided for by a law shifting the costs to another person or entity, all costs to remove or relocate the facilities or uses or otherwise resulting from the permit revocation shall be incurred and paid by the permittee. A permit may also be revoked for misrepresentation of information on the application, fraud in obtaining a permit, alteration of a permit, unauthorized use of a permit, or violation of a water quality permit. Upon revocation, the permit shall be surrendered without consideration for refund of fees. Upon restoration of A permit privileges a new land use permit that has been suspended shall be obtained prior to performing any noted as such for the suspension period and no work or use shall be allowed under a suspended permit. Any misrepresentations, fraudulent actions, or repeated violations may result in a permanent denial of the right to work within or use the right-of-way.

B. Land use permits In addition to all other available remedies, a districtwide permit may be revoked for a minimum of 30 calendar days if the permittee violates the terms of the

permit or any other law or regulation related to the permit or the permittee's activities in the right-of-way. A permittee will be provided written notice of the violation prior to revocation. During the revocation period, the permittee must satisfy all requirements for and obtain single use permits from the district administrator's designee to undertake any activities within the right-of-way.

C. Permits may be denied to any applicant or company, or both, joint applicant for a period not to exceed six months when the applicant or company, or both, has been notified in writing by the joint applicant or its contractors or agents have violated or are in violation of any term of a permit or of any federal, state, or local requirement applicable to work or use under a permit. Permits may also be denied to ensure the safety, use, or maintenance of the right-of-way. The Commissioner of Highways, the central office permit manager, district administrator, or district administrator's designee that shall provide the applicant and joint applicant with a written explanation of the violations have occurred under the jurisdiction of a districtwide or previously issued single use upon which a permit. Any denial is based and the actions required to cure the denial. A violation of a water quality permit held by a person, firm, or corporation violating a water quality permit shall permanently be denied a land use permit be a basis for denial of any future permit application by that person, firm, or corporation.

Furthermore, these violators D. Violations of the terms of a permit or this chapter may also be subject to criminal prosecution as provided for by § 33.2-210 of the Code of Virginia.

24VAC30-151-120. Provisions governing entrances. (Repealed.)

VDOT's authority to regulate highway entrances is provided in §§ 33.2-240, 33.2-241, and 33.2-245 of the Code of Virginia and its authority to make regulations concerning the use of highways generally is provided in § 33.2-210 of the Code of Virginia.

Regulations regarding entrances are set forth in VDOT's regulations promulgated pursuant to § 33.2-245 of the Code of Virginia (see 24VAC30-151-760).

24VAC30-151-220. Commercial use agreements. (Repealed.)

A. Where wider rights of way are acquired by VDOT for the ultimate development of a highway at such time as adequate funds are available for the construction of the highway, including such preliminary features as tree planting, the correction of existing drainage conditions, etc., the Commissioner of Highways does not consider it advisable to lease, rent, or otherwise grant permission for the use of any of the land so acquired except in extreme or emergency cases, and then only for a limited period.

When the land adjoining the highway is used for commercial purposes and where the existing road is located on the opposite side of the right of way, thereby placing the business from 65 feet (in the case of 110 feet right of way) to 100 feet or more (in the case of 160 feet right of way) away from the main traveled road, the owner of the business may continue to locate his driveways and pumps, in the case of a filling station, within the state right of way, provided that the driveways and pumps are at least as far from the edge of the existing pavement as existing driveways and pumps in evidence on the road are from the nearest edge of the pavement to their similar structures. No additional driveways or pumps may be constructed within the right of way. In such cases, agreements for "commercial uses" may be entered into for use of portions of the right of way for temporary or limited periods under the following policies and conditions:

1. Until such time as the Commissioner of Highways deems it necessary to use right of way acquired for future construction on a project for road purposes, agreements may be made with adjoining property owners for the temporary use of sections thereof. The use of this land shall be limited to provisions as set forth in the agreement, which shall cover commercial pursuits consistent with similar operations common to the highway. These operations and special conditions may include gasoline pumps, but not gasoline tanks.

2. The area of right of way designated for use of the landowner must not be used for the storing of vehicles, except while the vehicles are being serviced at the gasoline pumps. The area must be kept in a clean and orderly condition at all times.

B. Agreements may be revoked for cause or as outlined in subdivision A 1 of this section, either in whole or for any portion of the prescribed area that may be required for highway purposes, which may include one or more of the following:

1. The storage of road materials when other nearby suitable areas are not available;
2. The planting of trees and shrubs for permanent roadside effects;
3. The correction or improvement of drainage;
4. Development of wayside, parking or turnout areas; or
5. For other purposes as may be deemed necessary by the Commissioner of Highways.

C. Applications for agreements for commercial uses shall be made to the district administrator's designee. Agreements must be accompanied by a sketch showing the location of the roadway, shoulders, ditches and conditions existing within the right of way, together with description and plat of the area to be covered by it. The text of the application should describe the specific use for the site.

Regulations

~~D. Agreements shall be issued only to owners of property adjoining the area to be used. Agreements may be made for terms not to exceed one year, subject to the cancellation terms in subsection C of this section. VDOT shall not be responsible in any way for the policing of areas subject to commercial agreements. No structures are to be erected on areas subject to commercial agreements without written approval of the Commissioner of Highways.~~

24VAC30-151-230. Agriculture use agreements. (Repealed.)

~~A. In cases where wider rights of way are acquired by VDOT for the ultimate development of a highway at such time as adequate funds are available for the construction of the same, including such preliminary features as tree planting, the correction of existing drainage conditions, etc., the Commissioner of Highways does not consider it advisable to lease, rent, or otherwise grant permission for the use of any of the land so acquired except in extreme or emergency cases, and then only for a limited period.~~

~~When this land is being used for agricultural purposes, which would necessitate the owner preparing other areas for the same use, agreements for agricultural uses may be entered into for use of portions of the right of way for temporary or limited periods.~~

~~B. Agreements for agricultural uses may be made with adjoining property owners, until such time as the Commissioner of Highways deems it necessary to use right of way acquired for future construction on a project for road purposes. Agricultural use is not permitted on limited access highways. The use of this land will be limited to provisions as set forth in the agreement, which, in general, will cover agricultural pursuits the same as those carried out on adjoining lands and thereby made an integral part of the agreement. Operations and special conditions covering such operations may include one or more of the following:~~

- ~~1. Grazing of cattle and other livestock is permitted provided the area is securely enclosed by appropriate fence to eliminate any possibility of animals getting outside of the enclosure.~~
- ~~2. Forage crops such as hay, cereals, etc. are permitted provided that their growth will not interfere with the safe and orderly movement of traffic on the highway, and that, after crops are harvested, the land is cleared, graded and seeded with cover crop in such a manner as to prevent erosion and present a neat and pleasing appearance.~~
- ~~3. Vegetable crops are permitted provided that its growth will not interfere with the safe and orderly movement of traffic on the highway, and that all plants will be removed promptly after crops are harvested and the land cleared, graded and seeded with cover crop in such a manner as to prevent erosion and present a neat and pleasing appearance.~~

~~4. Fruit trees are permitted to maintain existing fruit trees, provided that they are sprayed to control insects and diseases; fertilized and the area is kept generally clear of weeds, etc., but no guarantee of longevity may be expected.~~

~~5. Small fruits are permitted, but no guarantee of longevity may be expected.~~

~~6. Other uses as may be specifically approved.~~

~~C. Agricultural use agreements will be subject to revocation for cause or as outlined in subsection B of this section, either in whole or for any portion of the prescribed area that may be required for highway purposes, which may include one or more of the following:~~

- ~~1. Storage of road materials when other nearby suitable areas are not available;~~
- ~~2. The planting of trees and shrubs for permanent roadside effects;~~
- ~~3. The correction or improvement of drainage;~~
- ~~4. The development of wayside, parking or turnout areas; or~~
- ~~5. For other purposes as may be deemed necessary by the Commissioner of Highways.~~

~~D. Applications for agreements for agricultural uses shall be made to the district administrator's designee. Agreements must be accompanied by a sketch showing the location of the roadway, shoulders, ditches and conditions existing within the right of way, together with a description and plat of the area to be covered by it. The text of the application should describe in detail the specific use for which the area is to be utilized.~~

~~Agreements shall be issued only to owners of property adjoining the area to be used. Agreements may be made for terms not to exceed one year, subject to the cancellation terms in subsection C of this section. VDOT shall not be held responsible in any way for the policing of areas subject to agricultural use agreements. No structures are to be erected on areas subject to agricultural use agreements without written approval of the Commissioner of Highways.~~

24VAC30-151-240. Dams.

A. VDOT may permit dams for farm ponds within the right-of-way. The local Soil and Water Conservation District soil and water conservation district, as defined in § 10.1-500 of the Code of Virginia, will coordinate the approval of all requests to establish farm ponds, including existing or proposed roadway occupation of the dam, with the district administrator's designee. For the purpose of this section, a roadway will be considered to accommodate a farm pond dam if:

1. Any part of the fill for the roadway and the fill for the dam overlap;

2. The area between the two embankments is filled in so that the downstream face of the dam is obscured; or

3. A closed drainage facility from a dam extends under a roadway fill.

B. ~~Permittee responsibility.~~ The permittee acknowledges that VDOT's liability is limited to the maintenance of the roadway and that VDOT has no responsibility or liability due to the presence of the dam, the maintenance of which shall remain the responsibility of the permittee.

C. All other roadway occupation of dams shall be in accordance with the Secondary Street Acceptance Requirements (see 24VAC30-151-760 24VAC30-92).

24VAC30-151-260. Railroad crossing permit requests from railroad companies.

A. ~~Operations by the railroad company shall conform to applicable statutes of the Code of Virginia in regard to construction and maintenance of the crossing surface, signing and other warning devices, blocking of crossing, etc. VDOT may permit railway crossings.~~

B. In the event of future widening of the highway, the permittee shall lengthen the crossing surface, relocate signs and signals, ~~etc., and make other adjustments~~ as may be necessary, at no expense to the Commonwealth.

C. Suitable ~~construction bond~~ surety shall be required when the construction work is to be performed by a contractor for the railroad.

24VAC30-151-270. Railroad crossing permit requests by other companies.

Where a person, firm, or chartered company engaged in mining, manufacturing, or lumber getting, as defined in § 33.2-252 of the Code of Virginia, applies directly for a permit to construct a tramway or railroad track across the right-of-way, a permit may be issued under the following conditions:

1. ~~Operations by the permittee shall conform to applicable statutes of the Code of Virginia in regard to construction and maintenance of the crossing surface, signing and other warning devices, blocking of crossing, etc.~~

2. 1. In the event of future widening of the highway, the permittee shall lengthen the crossing surface, relocate signs and signals, ~~etc., and make other adjustments~~ as may be necessary, at no expense to the Commonwealth.

3. 2. The permittee shall furnish a ~~performance and indemnifying bond~~ suitable surety of such amounts as VDOT deems necessary and agree to continue the same in force so long as the crossing is in place.

4. 3. The permittee shall notify VDOT prior to the permittee transferring ownership of a crossing so that proper arrangement can be made for the transfer of permitted responsibilities.

24VAC30-151-280. Springs and wells. (Repealed.)

~~In the acquiring of right of way, it is often necessary for VDOT to acquire lands where springs, wells and their facilities are located. It is the policy of VDOT to acquire these springs, wells and their facilities along with the land on which they are located. When so acquired, the landowner having previous use of these springs, wells and their facilities may be granted a permit to use these springs, wells and their facilities until the Commissioner of Highways shall, by written notice, advise that the permit is terminated. The issuing of the permit shall in no way obligate VDOT to maintain the springs, wells or facilities.~~

24VAC30-151-290. Public telephones. (Repealed.)

~~Public telephone booths may be allowed at rest areas and other locations as provided in 23 CFR 752.5 and allowed at other locations when a definite need is documented. Telephone booths may be allowed when a definite need exists to serve the traveling public, such as:~~

1. ~~At wayside areas, if well removed from access to off right-of-way public telephone stations.~~

2. ~~At other isolated areas sufficiently removed from existing off right-of-way public telephone stations as to impair the safety and convenience of traffic, provided that:~~

- a. ~~No private land is available or suitable for location of booth;~~
- b. ~~The location meets all safety requirements as to sight distance, access roads and parking; and~~
- c. ~~All costs incidental to providing turnout and parking area are borne by the telephone company.~~

24VAC30-151-300. General provisions governing utilities.

Utility installations on all highway rights-of-way shall comply with the following provisions:

1. ~~Overhead or underground utilities may be installed across any right of way by a utility under a permit. Requests for accommodations of utility facilities within the right-of-way shall be submitted to and reviewed by the district administrator's designee. These regulations govern all rights-of-way and apply to public and private utilities. These regulations also govern the location, design, methods and financial responsibility for installing, adjusting, accommodating and maintaining utilities.~~

2. Utility lines shall be located to minimize the need for later adjustments, to accommodate future highway improvements and transportation projects, and to allow servicing of the lines with minimum interference to highway traffic. VDOT retains the right to reject installations that do not address these factors. Utility lines ~~residing within the highway right-of-way~~ facilities shall conform to the type of highway and specific conditions for the highway section involved. Utility ~~installations~~ facilities within the highway right-of-way and

Regulations

utility attachments to ~~highway~~ structures shall be of durable materials, designed for long service life, and ~~be~~ relatively free from the need for routine servicing and maintenance. All ~~temporary~~ attachments to ~~highway~~ structures must be approved in advance by VDOT.

~~3. The permittee assumes full responsibility for any and all damages caused by improperly installed facilities within the right-of-way under permit (single use or districtwide); therefore, the permittee must make every effort to install its facilities properly so as to preclude the possibility of damage.~~

~~4. The permittee is responsible for the continuing maintenance of its facilities placed within the right-of-way under permit.~~

~~5. 3. Any conflicts with existing utility or other facilities shall be resolved between the permittee and the existing utility owner of the other utility or facility.~~

~~6. Utilities 4. No utility shall not be attached to a bridge or other structure unless the utility owner applicant or permittee can demonstrate that the installation and maintenance methods of the utility will not interfere with VDOT's ability to maintain the bridge or other structure, will not impact the durability and operational characteristics of the bridge or other structure, and, except for installation, will not require access to the facility from a limited access highway. The attachment method must be approved by VDOT (see 24VAC30-151-430).~~

~~7. 5. The encasement of underground utility crossings shall be in accordance with 24VAC30-151-370.~~

24VAC30-151-310. Utility installations within limited access highways.

Utility installations on all limited access highways shall comply with the following additional provisions:

1. Requests for all utility installations within limited access right-of-way shall be reviewed and, if appropriate, be approved by the ~~Commissioner of Highways~~ Chief Engineer prior to permit issuance.

2. New utilities will not be permitted to be installed parallel to the roadway longitudinally within the controlled or limited access right-of-way lines of any highway, except that ~~in special cases where other alternative locations are not in the public interest or under resource sharing agreements, such installations may be permitted under strictly controlled conditions and then only with approval from of the Commissioner of Highways. However, in each such case the utility owner must show~~ The applicant must satisfy the following conditions, at a minimum:

a. That the installation will not adversely affect the safety, design, construction, operation, maintenance, or stability of the highway.

b. That the accommodation will not interfere with or impair the present use or future expansion of the highway.

c. That any alternative location would be contrary to the public interest. This determination would include an evaluation of the direct and indirect environmental and economic effects that would result from the disapproval of the use of such right-of-way for the accommodation of such utility.

~~d. In no case will parallel installations within limited access right-of-way be permitted that involve~~ No tree removal or severe tree trimming is required for the installation.

3. Overhead and underground utilities may only be installed within limited access right-of-way ~~by a utility company under an agreement that provides for a shared resource arrangement~~ agreement subject to VDOT's need for the shared resource.

4. All authorized longitudinal utility installations within limited access right-of-way, ~~excluding communication tower facilities,~~ shall be located in a utility area established along the outer edge of the right-of-way. Special exceptions must be approved by the ~~Commissioner of Highways~~ Chief Engineer.

5. Authorized overhead utility installations within limited access right-of-way shall maintain a minimum of 21 feet of vertical clearance.

6. Authorized underground utility installations within limited access right-of-way shall have a minimum of 36 inches of cover.

7. Service connections to adjacent properties shall not be permitted from authorized utility installations within limited access right-of-way.

8. Overhead crossings shall be located on a line that is perpendicular to the highway alignment.

9. A utility access control line will be established between the proposed utility installation, the through lanes, and ramps.

24VAC30-151-330. Overhead utility installations within nonlimited access highways.

A. Overhead utility crossings shall be located on a line that is perpendicular to the highway alignment. Longitudinal installations shall be located on a uniform alignment as near as possible to the right-of-way line to provide a safe environment and space for future highway improvements and other utility installations.

B. Overhead longitudinal utilities may be installed on all nonlimited access highways by a public or private utility company under a permit, except in scenic areas, as follows:

1. Overhead utilities may be installed within nonlimited access right-of-way ~~by a utility company~~ under permit, including a districtwide permit as allowed under ~~24VAC30-151-30 C +~~ 24VAC30-151-30 B 1.

2. All overhead installations, excluding ~~communication tower~~ wireless support structure facilities, shall be located adjacent to the right-of-way line and in accordance with clear zone requirements. Repairs and replacement of similar installations may be performed in existing locations under the existing permit ~~providing, provided~~ the work shall not impede the traveled way. Additional poles, taller poles, or cross-arms require a separate permit.

C. Longitudinal installations of overhead lines within the right-of-way shall be limited to single-pole construction. Joint-use, single-pole construction will be encouraged at locations where more than one utility or type of facility is involved, especially where the right-of-way widths approach the minimum needed for safe operations or maintenance requirements, or where separate installations may require extensive removal or alteration of trees.

D. Consideration will not be given to poles placed on a highway right-of-way of less than 40 feet in width. ~~Longitudinal pole line installation shall be located on the outer 15 feet of the right of way greater than 40 feet in width.~~

E. Highway crossings should be grouped at one location whenever practical, and as near as possible to right angles to the center of the road.

F. New overhead installations crossing existing or proposed nonlimited access highways shall provide a minimum of 18 feet of vertical clearance or at a minimum height as established by the ~~National Electric Safety Code (see 24VAC30-151-760) standards and specifications set forth in the terms of the permit,~~ whichever is greater. The overlashing of telecommunications lines onto existing lines or strand is not considered a new overhead installation.

G. Existing overhead utilities that are found to be in horizontal or vertical conflict, ~~or both,~~ with proposed traffic control devices or signage, ~~or both,~~ shall be adjusted, ~~at no cost to VDOT the permittee's expense,~~ to provide an unobstructed view for the traveling public and the appropriate clearance from traffic control devices or signage.

H. The vertical clearance for all new overhead installations parallel to an existing or proposed highway and within nonlimited access rights-of-way shall be in compliance with standards as specified in the ~~National Electric Safety Code (see 24VAC30-151-760) terms of the permit.~~ The overlashing of telecommunications lines onto existing lines or strand is not considered a new overhead installation.

I. When crossing a median, all poles or other overhead facilities shall be placed to maintain an adequate clear zone in each direction.

J. Longitudinal pole line installation will not be allowed in the median.

24VAC30-151-340. Underground utility installations within nonlimited access highways.

Underground longitudinal utilities may be installed under permit on all nonlimited access highways, except in scenic areas, as follows:

1. Underground utilities may be installed within nonlimited access right-of-way by a public or private utility company under a permit, including a districtwide permit as allowed under 24VAC30-151-30 B 1.

2. All underground utilities within ~~VDOT~~ rights-of-way will require a minimum of 36 inches of cover, except ~~that~~ underground cables that provide [broadband,] cable [,] or telecommunications services shall be at a minimum of 30 inches of cover [, and except as authorized pursuant to 24VAC30-151-30 B 1]. The district administrator's designee has the discretion to grant an exception to depth of cover requirements if the permittee encounters obstacles preventing the installation of main line facilities at the minimum depth of cover, as long as installation at the minimum depth of cover is resumed when the installation passes by the obstacle.

3. An underground utility shall not be attached to a ~~bridge or other~~ structure unless the utility owner applicant or permittee can demonstrate that the installation and maintenance methods will not interfere with VDOT's ability to maintain the ~~bridge or other~~ structure, will not impact the durability and operational characteristics of the ~~bridge or other~~ structure, and will not require access from the roadway or interfere with roadway traffic. The attachment method must be approved by VDOT (see 24VAC30-151-430).

4. The proposed method for placing an underground facility requires approval from the district administrator's designee. All underground facilities shall be designed to support the load of the highway and any superimposed loads. All pipelines and encasements shall be installed in accordance with 24VAC30-151-360 and 24VAC30-151-370.

5. ~~Underground utilities~~ No underground utility shall ~~not~~ be installed within the median area except, ~~in special cases or~~ under shared resource agreements; or with approval from the Commissioner of Highways.

6. Underground utilities may be installed under sidewalk areas with approval from the district administrator's designee.

24VAC30-151-350. ~~Nonlimited access highways: communication towers~~ Wireless support structures and site installations.

~~Communication tower structures and other types of surface mounted or underground utility facilities may be installed by a~~

Regulations

~~utility company under an agreement providing for a shared resource arrangement or the payment of appropriate compensation, or both. The Commissioner of Highways may grant an exception for a nonshared resource arrangement, under strictly controlled conditions. The utility owner must show that any alternative location would be contrary to the public interest. This determination would include an evaluation of the direct and indirect environmental and economic effects that would result from the disapproval of the use of such right-of-way for the accommodation of such utility. Communication~~
In accordance with Chapter 15.1 (§ 56-484.26 et seq.) of Title 56 of the Code of Virginia, wireless support structures, communication pedestals, nodes, and amplifiers may be installed in the right-of-way pursuant to permit unless the district administrator's designee reasonably concludes that safety concerns at a specific location require placement of wireless support structures, communication pedestals, nodes, or amplifiers elsewhere in the right-of-way. The placement of communication pedestals, nodes, or amplifiers between the edge of pavement or back of curb and the sidewalk shall not be permitted. All requirements and regulations applicable to permits that do not conflict with Chapter 15.1 of Title 56 of the Code of Virginia must be followed to obtain and maintain a permit for wireless support structures, communication pedestals, nodes, and amplifiers.

24VAC30-151-360. Pipelines.

The permittee shall maintain minimum cover for any underground facility as established by the VDOT standards and specifications set forth in the terms of the permit or as otherwise required by applicable law, whichever is greater. Where pavement exists, the permittee shall bore, push, or jack and maintain a minimum cover of 36 inches.

The vertical and horizontal clearance between a pipeline and a structure or other highway facility shall be sufficient to permit maintenance of the pipeline and facility. Longitudinal pipeline installations shall be kept out of the ditch line where practical. When locating the utilities outside of the pavement area is not practical, such as in high density developments ~~incorporating the principles of new urbanism~~ as described in § 15.2-2223.1 of the Code of Virginia, utilities may be placed under the pavement. When utilities are proposed to be placed within the ditch line or under highway pavement, the permit applicant shall provide ~~the justification for such installations~~ to the district administrator's designee as part of the permit application.

All water, gas, sewer, electrical, communications, and any pressurized pipelines carrying hazardous material shall conform to all applicable industry codes, including materials, design, and construction requirements. No asbestos cement conduit or pipe shall be used for any installation. The permittee may be required to certify in writing that this restriction has been observed, if requested by VDOT.

Pipelines four inches in diameter or larger and no longer in use shall be cleaned of debris and plugged at open ends with Class A3 concrete. The district administrator's designee may also require such pipes to be filled prior to being plugged.

24VAC30-151-380. Appurtenances.

A. When vents are required, they shall be located at the high end of casings less than 150 feet in length and generally at both ends of casings longer than 150 feet. Vent standpipes shall be on or beyond the right-of-way line to prevent interference with maintenance or pedestrian traffic.

B. A permit may be granted to install drains for any underground facility. The permittee shall ensure the achievement of positive drainage.

C. National uniform color codes for identification of utilities shall be used to place permanent markers.

D. ~~Manholes~~ Utility access points (e.g., manholes and handholes) shall be placed in the shoulders, utility strips, or other suitable locations. When no other alternative is available, consideration will be given to placement of manholes in the pavement surface. Every effort should be made to minimize ~~manhole utility access point~~ installations at street intersections and in the normal wheel path of the travel lanes. ~~Manholes~~ Utility access points shall be designed and located in such a manner that shall cause the least interference to other utilities and future highway expansion.

E. ~~Manhole~~ Utility access point frames and covers, valve boxes, and other castings located within the paved roadway, shoulder, or sidewalk shall be constructed flush with the finished grade. ~~Manhole~~ Utility access point frames and covers, valve boxes, and other castings located within sidewalk areas shall be constructed in accordance with the Americans with Disabilities Act (42 USC § 12101 et seq.).

F. The permittee shall install shutoff valves, preferably automatic, in lines at or near the ends of structures and near unusual hazards, unless other sectionalizing devices within a reasonable distance can isolate hazardous segments.

24VAC30-151-390. In-place and prior-rights permits.

A. Prior to VDOT's acceptance of a secondary street into the VDOT system, the ~~public~~ utility owner shall ~~quitclaim its~~ all prior rights within the right-of-way to the Commonwealth in exchange for a ~~an in-place permit for in-place utilities on new subdivision streets. The utility may allowing the permittee's~~ utility facilities to continue to occupy such street in ~~its~~ the existing condition and location. The ~~public utility owner~~ permittee shall be responsible for the utility facilities and resulting damages to persons and property that might result from the presence of the utility. Should VDOT later require the ~~public utility owner~~ permittee to alter, change, adjust, or relocate ~~any~~ the utility facilities subject to the in-place permit, the ~~non-betterment~~ nonbetterment cost will be the

responsibility of the Commonwealth and all other costs will be the responsibility of the permittee.

B. In cases where existing utilities are not in conflict with transportation improvements authorized under the auspices of a land use permit, but would be located beneath transportation facility features, a ~~prior rights~~ prior-rights permit may be issued that allows the existing utilities to remain in place.

C. Utilities without prior rights but located within the right-of-way of new subdivision streets shall obtain an ~~in-place~~ in-place permit to occupy that portion of the right-of-way. Should VDOT later require the permittee to alter, change, adjust, or relocate any utility, the cost will be the responsibility of the permittee.

24VAC30-151-400. Utility adjustments in conjunction with a VDOT project.

~~A permit is required for~~ Where facilities are directed to be relocated in conjunction with a ~~VDOT transportation~~ project. ~~For specific information, see the Right of Way Utilities Relocation Policies and Procedures Manual (see 24VAC30-151-760), the [permittee permittee] must obtain a new permit for any facilities relocated within or to right-of-way. Unless otherwise specifically provided by the Code of Virginia or this chapter, all relocation is to be done in a timely manner so as to not interfere with the project and at the permittee's sole expense, and relocation must be done in accordance with the VDOT policies and procedures included in the terms of the permit.~~ Utilities may be placed within the ~~highway~~ right-of-way by permit, including adjustments and work performed in connection with utilities agreements. Utilities placed within the right-of-way shall conform to the requirements of this chapter.

24VAC30-151-420. Lighting facilities.

A. A permit is required for any lighting that will be on or overhanging the right-of-way. ~~Lighting on or overhanging the right-of-way is classified as roadway lighting or nonroadway lighting. Roadway lighting is lighting intended to improve visibility for users of the roadway. Nonroadway lighting and that is lighting intended designed to improve visibility or to enhance safety for pedestrians or illuminate the pavement or adjacent properties pedestrian or bicycle facilities.~~ Lighting facilities are not considered a utility.

B. Design of ~~roadway lighting facilities systems or fixtures~~ shall be based upon the specifications developed by the ~~Illuminating Engineering Society in the manual, American National Standard Practice for Roadway Lighting (see 24VAC30-151-760). The Roadway Lighting Design Guide by the American Association of State Highway and Transportation Officials (AASHTO) (see 24VAC30-151-760) may be used as a supplemental guide in accordance with § 2.2-1111 of the Code of Virginia and the terms of the permit.~~

C. The ~~permittee applicant~~ shall submit to the district administrator's designee ~~two copies of~~ scale drawings in

electronic format depicting lighting pole locations, mounting heights, pole and base type (breakaway or nonbreakaway), ~~photometric calculations, type and wattage, lumens of luminaries, and arm lengths.~~ Roadway lighting Lighting shall be installed in accordance with ~~VDOT's Road and Bridge Specifications (see 24VAC30-151-760) the terms of the permit.~~

~~D. Nonroadway lighting may be allowed within the right-of-way, provided such lighting does not adversely affect the visibility of roadway users, and lighting supports and support locations do not compromise VDOT clear zone and safety standards VDOT reserves the right to require modification or removal of luminaries if they are determined to be providing excessive light trespass into adjacent properties.~~

24VAC30-151-430. Attachments to bridge structures.

A. Utilities may be located on highway grade separation structures across interstate or other controlled access highways, over crossroads, and across major streams or valleys only in extreme cases, and with approval of the district structure and bridge engineer in accordance with VDOT specifications.

B. ~~Communication and electric power lines~~ Lines carrying electricity shall be insulated, grounded, and installed in a conduit or pipe to manholes or poles at either end of the structure, as applicable.

C. If a utility is placed on a structure, the installation shall be located beneath the structure's floor between the girders or beams, and at an elevation above the bottom flange of the beam. The utility shall not be attached to the outside of the exterior beam, parapets, or sidewalks.

D. Water and sewer attachments shall follow general controls previously listed for providing encasement and allied mechanical protection. In addition, shut-off valves shall be provided outside the limits of the structure.

E. Utilities attached to structures crossing waterways may require a water quality permit.

F. Natural gas and petroleum mains may not be attached to highway structures.

24VAC30-151-440. Miscellaneous permits. (Repealed.)

~~In accordance with the General Rules and Regulations of the Commonwealth Transportation Board (see 24VAC30-151-760), no use of any real property under the ownership, control or jurisdiction of VDOT shall be allowed until written permission is first obtained from VDOT. A permit, which shall constitute such permission, is required for the uses of right-of-way described in this part.~~

24VAC30-151-450. Banners and decorations.

A county, town, ~~or~~ religious or civic organization, or other individual or entity shall obtain a single use permit to hang banners or erect holiday decorations ~~(, such as lights),~~ across

Regulations

state highways. Banners and decorations shall not remain in place more than 30 calendar days and shall be a minimum of 21 feet above the center of the road. They shall not detract from, interfere with, or conflict with any existing highway signs or signals.

24VAC30-151-460. Building movements.

A single use permit shall be obtained for ~~all building movements on right-of-way for all buildings~~ over 16 feet wide. All requests for building movements require the approval of the district administrator's designee in the district where the move initiates after the ~~mover~~ applicant provides the required investigative report and route certification documents. All building movements shall be covered by a performance bond that is commensurate with the type of move requested. ~~Application for a building movement shall be made through the district administrator's designee in the district where the move initiates.~~

24VAC30-151-490. Construction or reconstruction of roads, entrances, bridges, or other drainage structures, or other transportation facilities.

A permit is required for construction or reconstruction of roads, private or commercial entrances, bridges or other, drainage structures, or other transportation facilities. Such activities may be permitted based upon evaluation, an engineering analysis provided by the applicant, and approval of the district administrator's designee. Approval by the relevant county board of supervisors may also be necessary.

24VAC30-151-500. Crest stage gauges, water level recorders.

Permits may be issued to any governmental ~~state~~ agency to install hydrological study equipment within ~~highway~~ rights-of-way. Maintenance of these facilities is the responsibility of the permittee.

24VAC30-151-520. Filming ~~for movies~~.

A single use permit ~~shall be obtained for any filming activities within the right-of-way that may affect the safety, use, or operation of the highway.~~ Additionally, a single use permit shall be obtained for any movie, television, or other commercial filming within the ~~highway~~ rights-of-way and shall be coordinated through the Film Office of the Virginia Tourism Corporation.

24VAC30-151-550. Roadside memorials.

~~A. Section 33.2-216 of the Code of Virginia directs the Commonwealth Transportation Board to establish regulations regarding the authorized location and removal of roadside memorials. Roadside memorials shall not be placed on state right-of-way without first obtaining a permit. At the site of fatal crashes or other fatal incidents, grieving families or friends often wish for a roadside memorial to be placed within the highway right-of-way. The following rules shall be followed~~

~~in processing applications to place roadside memorials within the highway right-of-way. A roadside memorial permit requires compliance with the following requirements as well as all other applicable permit regulations:~~

1. Applications for a memorial shall be submitted to the district administrator's designee. The district administrator's designee will review, ~~and if necessary, amend or reject any application~~ applications for compliance with applicable requirements and has the authority to issue or deny a permit or request amendment of the application.

2. If construction or major maintenance work is scheduled in the vicinity of the proposed memorial's location, the district administrator's designee may identify an acceptable location for the memorial beyond the limits of work, or the applicant may agree to postpone installation.

3. ~~If the~~ The applicant ~~requests an appeal to~~ may request review of the district administrator's designee's decision regarding amendment or ~~rejection~~ denial of an application; ~~this appeal will be forwarded to by~~ the district administrator.

4. Criteria used to review applications shall include, ~~but not be limited to,~~ the following factors:

- Potential hazard of the proposed memorial to travelers, the bereaved, VDOT personnel, or others;
- The effect on the proposed site's land use or aesthetics; and installation or maintenance concerns; and
- Circumstances surrounding the accident or incident.

5. Approval of a memorial does not give the applicant, family, or friends of the victim permission to park, stand, or loiter at the memorial site. ~~It is illegal to park along the interstate system, and because of safety reasons and concerns for the public and friends and family of the deceased, parking, stopping, and standing of persons along any highway is not encouraged.~~

~~B. The following rules will be followed concerning requirements and limitations apply to applications for roadside memorial participation permits:~~

1. Any human fatality that occurs on the state highway system is eligible for a memorial. Deaths of animals or pets are not eligible.

2. The applicant must provide a copy of the accident report or other form of information to the district administrator's designee so that the victim's name, date of fatality, and location of the accident can be verified. This information may be obtained by contacting the local or state police. The district administrator's designee may also require that the applicant supply a copy of the death certificate.

3. Only family members of the victim may apply for a memorial.

4. The applicant will confirm on the application that approval has been obtained from the immediate family of the

victim and ~~the~~ any adjacent property ~~owner or~~ owners to locate the memorial in the designated location. If any member of the immediate family objects in writing to the memorial, the application will be denied or the memorial will be removed if it has already been installed.

5. If the adjacent property owner objects in writing, the memorial will be relocated and the applicant will be notified.

6. Memorials will remain in place for two years from the date of installation, at which time the permit shall expire. The Commissioner of Highways may, upon receipt of a written request, grant an extension of the permit. An extension may be granted for a period of one year, and requests for further extensions must be submitted for each subsequent year. The applicant or the family of the victim may request that the memorial be removed less than two years after installation.

7. The applicant shall be responsible for the fabrication of the memorial. VDOT will install, maintain, and remove the memorial, but the cost of these activities shall be paid by the applicant to VDOT.

C. Roadside memorial physical requirements.

1. The memorial shall be designed in accordance with Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and § 46.2-831 of the Code of Virginia and the Rules and Regulations Controlling Outdoor Advertising and Directional and Other Signs and Notices (24VAC30-120) and Vegetation Control Regulations on State Rights-Of-Way (see ~~24VAC30-151-760~~ 24VAC30-200). The use of symbols, photographs, drawings, logos, advertising, or similar forms of medium is prohibited on or near the memorial.

2. Only one memorial per fatality shall be allowed.

3. VDOT reserves the right to install a group memorial in lieu of individual memorials to commemorate a major incident where multiple deaths have occurred.

4. The memorial shall be located as close as possible to the crash site, but location of the memorial may vary depending on the site and safety conditions.

a. Memorials shall be installed outside of the mowing limits and ditch line and as close to the right-of-way line as reasonably possible.

b. Memorials shall be located in such a manner as to avoid distractions to motorists ~~or pose~~ and safety hazards to the traveling public.

c. Memorials shall not be installed in the median of any highway, on a bridge, or within 500 feet of any bridge approach.

d. Memorials shall not be permitted in a construction or maintenance work zone. VDOT reserves the right to temporarily remove or relocate a memorial at any time for

highway maintenance or construction operations or activities.

e. If ~~VDOT's~~ the right-of-way is insufficient for a memorial to be installed at the crash site, the district administrator's designee ~~will~~ may locate a more suitable location as close as possible to the incident vicinity to locate the memorial where sufficient right-of-way exists.

D. Removal. After the two-year term or any extension of the term approved in accordance with this section, the memorial shall be removed by VDOT personnel. The memorial nameplate will be returned to the applicant or the designated family member, if specified on the application. If the applicant does not wish to retain the nameplate, the nameplate will be reused, recycled, or disposed at VDOT's discretion.

24VAC30-151-560. Mailboxes and newspaper boxes.

Mailboxes and newspaper boxes may be placed within VDOT right-of-way without a permit; however, placement ~~should~~ shall not interfere with safety, maintenance ~~and~~, or use of the roadway. Lightweight newspaper boxes may be mounted on the side of the support structure. Breakaway structures will be acceptable as a mailbox post. Breakaway structures are defined as a single four-inch by four-inch square or four-inch diameter wooden post or a standard strength, metal pipe post with no greater than a two-inch diameter.

24VAC30-151-570. Miscellaneous signs and devices.

A. In cooperation with local, state, and federal organizations, certain public service signs may be placed within the right-of-way without a permit. The district administrator's designee shall determine the appropriate location for the following signs.

1. Forestry. Authorized representatives of the ~~National U.S. Forest Service and State Forest Service~~ National U.S. Forest Service and State Forest Service Virginia Department of Forestry may place forest fire warning signs within the right-of-way without a permit. ~~Fire~~ A limited number of fire warning signs will be placed near forest reservations or wooded areas; ~~however, only a limited number of the small cardboard or metal signs should be allowed within the right-of-way within the forest reservations.~~ The Department of Forestry may utilize other types of signs to more forcibly impress the public with the need for protecting forest areas. Sign placement shall be accomplished under an agreement, subject to the following conditions:

a. No highway sign should carry more than one message; and no other signs shall appear on posts bearing highway signs;

b. No signs shall be erected that would restrict sight distance; or are close to highway warning and directional signs;

c. Signs regarding forest fires should be placed by fire wardens; and

Regulations

d. Signs shall be maintained by the Department of Forestry.

In all cases, the forest warden is to coordinate the desired location of these signs with the district administrator's designee prior to placement.

2. Garden week. These signs are erected and removed by employees of VDOT. The appropriate committee of the Garden Club of Virginia will designate the gardens and places that are to be officially opened during Garden Week and notify the district administrator's designee accordingly, who will ensure the appropriate placement of these signs.

3. Roadside ~~acknowledgement~~ acknowledgment. These signs acknowledge the name and logo of businesses, organizations, communities, or individuals participating in the landscape of a segment of the right-of-way in accordance with the Comprehensive Roadside Management Program (~~see 24VAC30-151-760~~ 24VAC30-121). As the landscaping is accomplished under a land use permit, the signs are considered to be covered by that permit.

~~4. Rescue squad. These signs are fabricated, erected, and maintained by VDOT. The signs may be used on the approaches to the rescue squad headquarters as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760).~~

~~5. Fire station. These signs are fabricated, erected, and maintained by VDOT. The signs may be used on the approaches to fire station headquarters as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760).~~

~~6. 4. Bird sanctuary. Upon receipt of a request from a town or city, VDOT will fabricate and erect these signs, at the expense of the municipality, at the corporate limits of the town or city under the municipality name sign as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760). In order for a municipality to be designated as a bird sanctuary, the municipality must pass a resolution to that effect. The municipality shall be responsible for maintenance of bird sanctuary signs.~~

~~7. 5. Historical highway markers. Information regarding the historical highway marker program may be obtained from the Virginia Department of Historic Resources. Applications for historical highway markers shall be obtained from and submitted to the Virginia Department of Historic Resources.~~

B. The district administrator's designee may authorize the placement of the following miscellaneous signs within right-of-way under ~~the auspices of~~ a single use permit:

1. Locality identification or "welcome to" signs. Requests for locality identification or "welcome to" signs to be located within nonlimited access right-of-way. These signs shall not be placed on limited access right-of-way. Locality

identification or "welcome to" signs that interfere with roadway safety, traffic capacity, or maintenance shall not be permitted. A permit application requesting placement of a locality identification or "welcome to" sign within the right-of-way must be accompanied by a formal resolution from the local governing body or a letter from the chief executive officer of the local government. Such signs shall meet all VDOT breakaway requirements (~~see Road Design Manual, 24VAC30-151-760~~) specified in the terms of the permit or be erected outside of the clear zone. No advertising shall be placed on these signs. The local governing body shall be responsible for maintenance of the locality's identification or "welcome to" signs in perpetuity.

2. VDOT may authorize any individual, group, local government, and other entities to place storm drain pollution prevention markers or stenciling on VDOT storm drain inlet structures accessible by pedestrian facilities. A local government, through coordination with the district administrator's designee, may apply for a countywide permit to enable this type of activity ~~of on~~ on behalf of clubs, citizens groups, and other entities. The permit application must include, at a minimum, a graphic sample ~~or samples~~ of the proposed markers, structure locations and a comprehensive list of streets; if a wide distribution of marker placement is anticipated. Stencil measurements shall not exceed ~~15" L x 20" W~~ 15 inches in length by 20 inches in width.

3. VDOT may authorize a local government to install "no loitering" signs within the right-of-way. The district administrator's designee shall determine the appropriate location for these signs.

C. The Commissioner of Highways or the commissioner's designee may authorize the placement of various automated traffic enforcement devices for the Commonwealth or its political subdivisions as may be allowed by law.

24VAC30-151-580. Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation-related elements.

Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation elements, such as ~~pedestrian-oriented~~ pedestrian-oriented trash cans, or any combination of these, that do not interfere with roadway safety, traffic capacity, or maintenance may be authorized under ~~the auspices of~~ a single use permit. These nontransportation related elements shall not be placed on limited access rights-of-way. ~~Requests for the placement of ornamental posts, walls, residential and commercial development identification signs, or other nontransportation related elements, or any combination of these, may be permitted as authorized by the district administrator's designee.~~ Permit applications requesting placement of ornamental posts, walls, residential and commercial development identification signs, other nontransportation related elements, or any combination of these, within the right-of-way must be

accompanied by documentation indicating the issuance of all required approvals and permissions from the local jurisdictional authority. Such ornamental posts, walls, residential and commercial development identification signs, and other nontransportation related elements shall meet all VDOT breakaway requirements ~~(see Road Design Manual, 24VAC30-151-760)~~ specified in the terms of the permit or be erected outside of the clear zone. No advertising shall be placed on these nontransportation related elements permitted within the right-of-way. The permittee shall be responsible for maintenance of these nontransportation related elements in perpetuity.

24VAC30-151-590. Outdoor advertising adjacent to the right-of-way. (Repealed.)

~~Permits for outdoor advertising located off the right of way are obtained through the roadside management section at any VDOT district office or the Maintenance Division in accordance with Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 of the Code of Virginia. Selective pruning permits for outdoor advertising shall be issued in accordance with § 33.2-1221 of the Code of Virginia.~~

24VAC30-151-600. Pedestrian and bicycle facilities.

The installation of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses, and overpasses within right-of-way may be authorized under ~~the auspices of a single use permit. VDOT, at its discretion, shall maintain those facilities that meet the requirements of the Commonwealth Transportation Board's Policy for Integrating Bicycle and Pedestrian Accommodations (see 24VAC30-151-760) are open for general public use, built in the right-of-way to VDOT standards, and accepted by VDOT for maintenance.~~ The maintenance of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses, and overpasses not meeting these requirements shall be subject to permit requirements, and the permittee shall be responsible for maintenance of these facilities.

The installation of pedestrian or bicycle facilities within limited access right-of-way shall be considered a change in limited access control and requires approval of the Commonwealth Transportation Board prior to permit issuance (see Change of Limited Access Control, 24VAC30-151-760 24VAC30-401). The installation of pedestrian or bicycle facilities parallel to and within the right-of-way of nonlimited access highways crossing limited access highways by way of an existing bridge or underpass shall not be considered a change in limited access but shall require the approval of the ~~Commissioner of Highways~~ Chief Engineer prior to issuance of a permit for such activity.

24VAC30-151-620. Roadside management, landscaping.

Placement and maintenance of plant materials by individuals or organizations may be allowed under a single use permit in ~~strict accordance with VDOT Road and Bridge Specifications (see 24VAC30-151-760), VDOT Road and Bridge Standards~~

~~(see 24VAC30-151-760)~~ specifications as set forth in the terms of the permit, § 33.2-265 of the Code of Virginia, and the Comprehensive Roadside Management Program (see 24VAC30-151-760 24VAC30-121). ~~The applicant permittee shall maintain any altered roadside area in perpetuity for the duration of the permit. All related permit applications shall be accompanied by a corresponding maintenance agreement. If permit conditions, including the maintenance agreement, are violated at any time, VDOT reserves the right to reclaim and may revoke the permit and restore such permitted the roadside area to its original condition or otherwise establish turf in accordance with VDOT Road and Bridge Specifications (see 24VAC30-151-760) standards and specifications. The costs of reclamation and restoration activities shall be paid by the permittee. Tree pruning or removal may be allowed on right-of way for maintenance purposes for utility facilities or as part of a roadside beautification project sponsored by the local government or to daylight an outdoor advertising structure or business in accordance with Vegetation Control Regulations on State Rights-of-Way (see 24VAC30-151-760 24VAC30-200). See VDOT's Tree and Brush Trimming Policy (see 24VAC30-151-760) for further information.~~

All pesticide applicators shall meet the applicable requirements established by the Department of Agricultural and Consumer Services in ~~Rules and Regulations for Enforcement of the Governing Pesticide Product Registration, Handling, Storage, and Disposal under Authority of the Virginia Pesticide Law Control Act (2VAC5-670) (see 24VAC30-151-760).~~ Pesticide activities shall comply with all applicable federal and state regulations.

Permits for volunteer mowing or litter pickup shall be issued only under conditions that ensure reasonable safety for all participants and other highway users and that will not cause unreasonable interference with normal traffic flow. All volunteer mowing operations on highway segments with speed limits greater than 45 mph shall be performed only by licensed, bonded, and insured persons. A copy of the permit and all safety requirements included in the permit must be maintained at the mowing site. No lane closures will be allowed for mowing, and the mower operator and mowing equipment shall not encroach into the travel way while in operation. Participants of a one-time litter pickup shall be adults or shall be supervised by an adult. The ratio shall be one adult per no more than six children. No participants 10 years of age or younger will be allowed to participate. All participants must view an Adopt-a-Highway safety video prior to participating.

24VAC30-151-630. Transit and school bus shelters.

School bus shelters, public transit shelters, or share ride stations may be authorized under the auspices of a single use permit. Approval of ~~such structures the shelter or station design must be obtained in accordance with from the Virginia Department of General Services requirements set forth in the Construction and Professional Services Manual (see~~

Regulations

~~24VAC30-151-760~~ prior to the issuance of a permit. Shelters shall be located in accordance with all clear zone requirements ~~described in Appendix A 2 of VDOT's Road Design Manual (see 24VAC30-151-760)~~ specified in the terms of the permit.

24VAC30-151-670. Prohibited use of right-of-way.

~~No~~ The following uses of the right-of-way are prohibited and ~~no~~ permit shall be issued for the following uses of the right-of-way:

1. Signs. Signs not otherwise allowed in this chapter ~~or by law, including temporary signs, banners, inflatable and air-blown signs, and decorations,~~ shall not be placed, located, or displayed on the ~~highway~~ right-of-way or overhang the right-of-way.

2. Vendors on right-of-way. ~~Permits will not be issued to vendors for~~ Vendor activities and the operation of business within ~~state~~ the rights-of-way, except ~~that a permit may be issued for the following activities:~~

a. As may be allowed for waysides and rest areas under the Rules and Regulations for the Administration of Waysides and Rest Areas (~~see 24VAC30-50-10 and 24VAC30-151-760~~ 24VAC30-50) and the Rules and Regulations for the Administration of Parking Lots and Environs (~~24VAC30-100-10~~ 24VAC30-100).

b. ~~Vendors~~ Commercial vendors of newspapers and written materials ~~enjoy constitutional protection under the First Amendment to~~ may place or operate their services within rights-of-way, provided ~~they~~ services neither impede traffic nor impact the safety of the traveling public. Newspaper vending machine size, placement, and location shall be as directed by the district administrator's designee ~~for that area.~~

c. ~~To localities to~~ Localities may administer mobile food vending on nonlimited access highways, where the vending operations are regulated by local ordinances, operated consistent with such ordinances, and in accordance with the Commonwealth Transportation Board's regulations and policies.

d. Bike share or other micromobility system operators for placement of stations.

e. Electric vehicle charging stations as allowed by law.

3. Dwellings. No private dwellings, garages, or similar structures shall be placed or constructed within the right-of-way, except support buildings as may be allowed under ~~24VAC30-151-220 and 24VAC30-151-230~~ 24VAC30-151-350 in connection with wireless communication facilities.

24VAC30-151-690. Permitted discharge to VDOT right-of-way.

A. Permits to discharge to ~~VDOT~~ the right-of-way may be issued upon written approval of the local public health department or the Virginia Department of Environmental Quality, or both, and this written approval shall be made part

of the permit application. Discharges made to ~~VDOT~~ the right-of-way pursuant to a Virginia Pollutant Discharge Elimination System (VPDES) Permit shall demonstrate prior to discharge that no feasible alternative discharge point exists. If discharge is made to ~~VDOT~~ the right-of-way, the permittee shall notify the district administrator's designee of any instances where the regulated discharge limits are exceeded and take immediate corrective action to ensure future excursions are prevented, and any damage to ~~VDOT property~~ the right-of-way is remediated. Any discharges made pursuant to the ~~General~~ Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges from ~~Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (see 24VAC30-151-760)~~ Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests (9VAC25-120) shall be prohibited from containing any water exhibiting visible oil sheen.

B. Any damages to ~~VDOT property~~ the right-of-way, regardless of authorization implied by any non-VDOT issued permit, shall be remedied or repaired immediately by the permittee.

24VAC30-151-700. General provisions for fees, surety, and other compensation.

Except as otherwise provided in this part, the applicant shall pay an application fee to cover the cost of permit processing, pay additive fees to offset the cost of plan review and inspection, and provide surety to guarantee the satisfactory performance of the work ~~or use~~ under permit. For locally administered VDOT projects, the permit fees are waived and in lieu of a surety, the locality may (i) provide a letter that commits to using the surety in place or (ii) have the contractor execute a dual obligation rider that adds VDOT as an ~~additional~~ obligee to the surety bond provided to the locality, with either of these options guaranteeing the work performed within ~~state-maintained~~ state-maintained right-of-way under the terms of the land use permit for that purpose. A copy of the original surety and letter or rider shall be attached to the land use permit. Except as provided in 24VAC30-151-740, utilities within the right-of-way shall pay an annual accommodation fee as described in 24VAC30-151-730. In the event of extenuating circumstances, the Commissioner of Highways may waive all or a portion of any of the fees or surety.

24VAC30-151-710. Fees.

A. Single use permit. A nonrefundable application fee shall be charged to offset the cost of reviewing and processing the permit application and inspecting the project work, in accordance with the requirements in this subsection:

1. The application fee for a single permit is \$100. Public rights-of-way use fees may be charged in lieu of permit fees in certain situations in accordance with law.

2. Additive costs shall be applied as indicated in this subdivision. The district administrator's designee will

determine the total permit fees using the following schedule:

Activity	Fee
Private Entrances	none
Commercial Entrance	\$150 for first entrance \$50 for each additional entrance
Street Connection	\$150 for first connection \$50 for each additional connection
Temporary Logging Entrance	\$10 for each entrance
Temporary Construction Entrance	\$10 for each entrance
Turn Lane	\$10 per 100 linear feet
Crossover	\$500 per crossover
Traffic Signal	\$1,000 per signal installation
Reconstruction of Roadway	\$10 per 100 linear feet
Curb and Gutter	\$10 per 100 linear feet
Sidewalk	\$10 per 100 linear feet
Tree Trimming (for outdoor advertising)	in accordance with § 33.2-1221 of the Code of Virginia
Tree Trimming (all other activities)	\$10 per acre or 100 feet of frontage
Landscaping	\$10 per acre or 100 feet of frontage
Storm Sewer	\$10 per 100 linear feet
Box Culvert or Bridge	\$5 per linear foot of attachment
Drop Inlet	\$10 per inlet
Paved Ditch	\$10 per 100 linear feet
Under Drain or Cross Drain	\$10 per crossing

Above-ground Structure (including poles, pedestals, fire hydrants, towers, etc.)	\$10 per structure
Pole Attachment	\$10 per structure
Span Guy	\$10 per crossing
Additive Guy and Anchor	\$10 per guy and anchor
Underground Utility - Parallel	\$10 per 100 linear feet
Overhead or Underground Crossing	\$10 per crossing
Excavation Charge (including Test Bores and Emergency Opening)	\$10 per opening
Two Month Commuter Lot Mobile Food Vending (available in Planning District 8 only) (weekdays and weekends)	\$150
Single Weekend Commuter Lot Mobile Food Vending (available in Planning District 8 only) (per weekend)	\$10

3. ~~Time Permit term~~ extensions for active permits shall incur a monetary charge ~~equal to one half the application fee charged to the initial permit~~ of \$50. Expired permits may be reinstated; however, fees for reinstatement of expired permits shall ~~equal the application fee~~ be \$100. Notwithstanding 24VAC30-151-80, commuter lot mobile food vending permits may not be extended or reinstated.

4. If a permit is ~~cancelled~~ canceled prior to the beginning of the permitted activity, the application fee and ~~one half of the~~ additive fee will be retained as compensation for costs incurred by VDOT during plan review.

5. The district administrator's designee, in accordance with 24VAC30-151-70, may establish an account to track plan review and inspection costs and may bill the permittee not more often than every 30 calendar days. If an account is established for these costs, the permittee shall be responsible for the nonrefundable application fee and the billed costs. When actual costs are billed, the district administrator's designee shall waive the additive fees in subdivision 2 of this subsection.

B. Districtwide permits. Districtwide permits, as defined in 24VAC30-151-30, are valid for a period of two years. The biennial fee for a districtwide permit for utilities and logging operations is \$750 per district. The biennial fee for a districtwide permit for surveying is \$200 per district. The central office permit manager may exercise discretion in combining requests for multijurisdictional districtwide permits and to authorize unlimited time extensions at the full cost of the permit fee for each two-year term.

Regulations

~~C. Miscellaneous permit fees. To connect the facility to the transmission grid pipeline, the operator of a nonutility renewable energy facility that produces not more than two megawatts of electricity from a renewable energy source, not more than 5,000 mmBtus/hour of steam from a renewable energy source, or landfill gas from a solid waste management facility, shall remit to VDOT a one-time permit fee of \$1,500 per mile as full compensation for the use of the right-of-way in accordance with § 56-617 of the Code of Virginia.~~

~~D. C.~~ C. No-fee permits. The following permits shall be issued at no cost to the applicant:

1. In-place permits as defined in 24VAC30-151-30 and 24VAC30-151-390.
2. Prior-rights permits as defined in 24VAC30-151-30 and 24VAC30-151-390.
3. As-built permits as defined in 24VAC30-151-30.
4. ~~Springs and wells as defined in 24VAC30-151-280.~~
5. Crest stage gauges and water level recorders as defined in 24VAC30-151-500.
6. ~~5.~~ 5. Filming for movies as defined in 24VAC30-151-520.
7. ~~6.~~ 6. Roadside memorials as defined in 24VAC30-151-550.
8. ~~7.~~ 7. No loitering signs as defined in 24VAC30-151-570.
8. Litter pickup and volunteer mowing as defined in 24VAC30-151-620.

24VAC30-151-720. Surety.

A. Performance surety. The permittee applicant shall provide surety to guarantee the satisfactory performance of the work or use for which a permit is requested. Surety shall be based on the estimated cost of work to be performed within the right-of-way or as otherwise stated in this chapter. Surety may be in the form of a check, cash, irrevocable letter of credit from a financial or banking institution, insurance performance bond, or any other VDOT-approved method. An applicant for a districtwide permit for utilities shall provide a continuous surety in the amount of \$10,000 per county. An applicant for a districtwide permit for logging entrances shall provide a continuous surety in the amount of \$10,000 per district. There is no surety requirement for districtwide permits for surveying. Under no circumstances shall VDOT or any agency of the Commonwealth be named the escrow agent, nor shall. No funds deposited with VDOT as surety shall be subject to the payment of interest. The surety will be refunded or released upon completion of the work and inspection by VDOT subject to the provisions of § 2.2-1151.1 of the Code of Virginia in accordance with the law. VDOT shall be named as an obligee on the bond or a payee for a check, cash, or revocable letter of credit. If a permit is ~~cancelled~~ canceled prior to the beginning of work, the surety shall be refunded or released.

Should the permittee fail to complete the work to the satisfaction of the district administrator's designee, then all or whatever portion of the surety that is required to complete work covered by the permit or to restore the right-of-way to its original condition shall be retained by VDOT.

~~B. Continuous surety~~ Structure bond. Permittees installing, operating, and maintaining facilities within the highway right-of-way shall secure and maintain a continuous bond. Governmental customers may use a resolution in lieu of a continuous bond. The continuous surety shall be in an amount sufficient to restore the right-of-way in the event of damage or failure. The surety shall remain in full force as long as the work facility covered by the permit remains within the right-of-way. A private or commercial entrance does not require a continuous surety. Any other installation may require a continuous surety as determined by the district administrator's designee. ~~An applicant for a districtwide permit for utilities shall provide a continuous surety in the amount of \$10,000 per county. An applicant for a districtwide permit for logging entrances shall provide a continuous surety in the amount of \$10,000 per district. There is no surety requirement for districtwide permits for surveying.~~

24VAC30-151-730. Accommodation fees.

The Commissioner of Highways or a designee shall determine the annual compensation for the use of the right-of-way by a utility, except as provided in 24VAC30-151-740. The rates shall be established on the value of the right-of-way being used to accommodate the utility facility. The rates for wireless facility installations shall be established on the following basis:

1. ~~Limited Access Crossings—\$50 per crossing.~~
2. ~~Limited Access Longitudinal Installation—\$250 per mile annual use payment.~~
3. ~~Wireless Communication Facility Sites (limited and nonlimited access):~~
 - a. ~~\$24,000 annual use payment for a wireless support structure permitted prior to July 1, 2018, until the permit expires or is terminated~~ 1. Small cell attachments to VDOT-owned towers and poles and placement of associated equipment shall be in accordance with § 56-484.31 of the Code of Virginia;
 - b. ~~\$14,000 annual use payment for non-small cell colocation on a wireless support structure. This payment does not include equipment mounted to an existing wooden utility pole~~ 2. Wireless facility attachments and emplacements at VDOT-owned towers shall be negotiated in the same manner as resource sharing as set out in 24VAC30-151-740; and
 - e. 3. A wireless support structure installed under a land use permit issued on or after July 1, 2018, shall have an annual use payment based upon the following, which shall be

adjusted every five years set in accordance with § 56-484.32 of the Code of Virginia:

- (1) ~~\$1,000 for any wireless support structure at or below 50 feet in height;~~
- (2) ~~\$3,000 for any wireless support structure above 50 feet and at or below 120 feet in height;~~
- (3) ~~\$5,000 for any wireless support structure above 120 feet in height; and~~
- (4) ~~\$1.00 per square foot for any other equipment, shelter, or associated facilities constructed on the ground.~~

24VAC30-151-740. Exceptions and provisions to the payment of fees and compensation.

A. Pursuant to §§ 56-462 and 56-468.1 of the Code of Virginia, a certificated provider of telecommunication service shall collect and remit to VDOT a Public Right-of-Way Use Fee as full compensation for the use of the right-of-way by those utilities.

B. Pursuant to §§ 15.2-2108.1:1 and 56-468.1 of the Code of Virginia, a cable television operator subject to the public right-of-way use fee shall not be charged an annual use payment for the use of public the right-of-way.

C. Pursuant to § 56-468.1 of the Code of Virginia, certified providers of telecommunications service shall not be charged ~~land use~~ permit application and additive fees or an annual payment under a resource sharing agreement for the use of public the right-of-way.

D. Municipal or authority owned sewer and water facilities and renewable energy generation transmission facilities shall not be charged an accommodation fee pursuant to 24VAC30-151-730 ~~of this chapter~~ for the use of public right-of-way.

E. At ~~VDOT's~~ the discretion of the Commissioner of Highways, under the provisions of resource sharing as defined described in 24VAC30-151-30, compensation for the use of the limited access right-of-way may be negotiated and agreed upon through ~~one~~ any of the following methods:

1. The mutually agreeable exchange of goods, facilities, or services only;
2. ~~Cash~~ Monetary compensation only; or
3. A combination of both.

~~VDOT~~ The Commissioner of Highways will ensure that the goods or services provided in any mutually agreeable exchange are equal to the monetary compensation amount established for the use and occupancy of the right-of-way.

F. VDOT may enter into wireless support structure agreements to permit the construction of wireless support structures or a wireless facility's occupancy of the right-of-way, consistent with applicable law.

24VAC30-151-760. Listing of documents (publications) incorporated by reference. (Repealed.)

~~Requests for information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from VDOT may be obtained from the department's division and representative indicated; however, department documents may be available over the Internet at www.VirginiaDOT.org. Documents with a Virginia Administrative Code (VAC) number may be accessed from the Internet at: <http://leg1.state.va.us/000/srr.htm>.~~

- ~~1. Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC30-73)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

- ~~2. Access Management Regulations: Principal Arterials (24VAC30-72)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

- ~~3. Change of Limited Access Control (24VAC30-401)~~

~~State Right-of-Way Director (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

- ~~4. Comprehensive Roadside Management Program (24VAC30-121)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

- ~~5. Construction and Professional Services Manual~~

~~Department of General Services~~

~~Division of Engineering and Buildings~~

~~Bureau of Capital Outlay Management (BCOM)~~

~~1100 Bank Street, 6th Floor~~

~~Richmond, VA 23219~~

- ~~6. Erosion and Sediment Control Regulations (4VAC50-30)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

~~Richmond, VA 23219~~

Regulations

~~7. General Rules and Regulations of the Commonwealth Transportation Board (24VAC30-20)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~8. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (9VAC25-120)~~

~~Regulatory Coordinator~~

~~State Water Control Board~~

~~P. O. Box 10009~~

~~Richmond, VA 23240~~

~~9. Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) (effective December 22, 2003, revised November 2004)~~

~~Federal Highway Administration~~

~~Superintendent of Documents~~

~~U.S. Government Printing Office~~

~~P.O. Box 371954~~

~~Pittsburgh, PA 15250-7954~~

~~10. National Electric Safety Code (2007 edition)~~

~~Institute of Electrical and Electronics Engineers, Inc.~~

~~10662 Los Vaqueros Circle~~

~~P.O. Box 3014~~

~~Los Alamitos, CA 90720-1264~~

~~11. Policy for Integrating Bicycle and Pedestrian Accommodations (effective 2004)~~

~~Transportation and Mobility Planning Division (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~12. Right of Way Utilities Relocation Policies and Procedures Manual (effective November 2003)~~

~~State Right of Way Director (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~13. Road and Bridge Specifications 2007 (revised 2008)~~

~~Scheduling and Contract Division (VDOT)~~

~~State Contract Engineer~~

~~1401 E. Broad Street~~

~~Richmond, VA 23219~~

~~14. Road and Bridge Standards (effective 2009)~~

~~Location and Design Engineer (VDOT)~~

~~1401 E. Broad Street~~

~~Richmond, VA 23219~~

~~15. Road Design Manual (effective 2005, revised 2009)~~

~~Location and Design Engineer (VDOT)~~

~~1401 E. Broad Street~~

~~Richmond, VA 23219~~

~~16. Roadway Lighting, American National Standard Practice for Roadway Lighting (effective 2000, reaffirmed 2005)~~

~~The Standard Practice Subcommittee of the IESNA Roadway Lighting Committee~~

~~The Illuminating Engineering Society of North America~~

~~120 Wall Street~~

~~New York, NY 10005~~

~~17. Roadway Lighting Design Guide (effective 2005)~~

~~American Association of State Highway and Transportation Officials (AASHTO)~~

~~444 North Capitol St. N.W., Suite 225~~

~~Washington, D.C. 20001~~

~~18. Rules and Regulations Controlling Outdoor Advertising and Directional and Other Signs and Notices (24VAC30-120)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~19. Rules and Regulations for the Administration of Waysides and Rest Areas (24VAC30-50)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~20. Rules and Regulations for Enforcement of the Virginia Pesticide Law (2VAC20-20)~~

~~Virginia Department of Agricultural and Consumer Services~~

~~Office of Pesticide Services~~

~~102 Governor Street, 1st Floor~~

Richmond, VA 23219

~~21. Rules for Enforcement of the Underground Utility Damage Prevention Act (20VAC5-309)~~

~~State Corporation Commission~~

~~Department of Energy Regulation~~

~~P. O. Box 1197~~

~~Richmond, VA 23218~~

~~22. Secondary Street Acceptance Requirements (24VAC30-92)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~23. Vegetation Control Regulations on State Rights of Way (24VAC30-200)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~24. VDOT Tree and Brush Trimming Policy (effective 2004)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~25. Virginia Erosion and Sediment Control Handbook, 3rd edition (effective 1992), a Technical Guide to The Virginia Erosion and Sediment Control Law and Regulations (4VAC50-30)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

~~Richmond, VA 23219~~

~~26. Virginia Stormwater Management Handbook, 1st edition, Volumes 1 and 2, (effective 1999), a Technical Guide to the Virginia Stormwater Management Program Permit Regulations (4VAC50-60)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

~~Richmond, VA 23219~~

~~27. Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

~~Richmond, VA 23219~~

~~28. Virginia Supplement to the Manual on Uniform Traffic Control Devices (24VAC30-310, includes the Virginia Work Area Protection Manual)~~

~~Traffic Engineering Division (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

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 (24VAC30-151)

~~Land Use Permit LUP-HRIPE, Land Use Permit Application for Photo Enforcement of High Risk Intersection Segments (eff. 8/2024)~~

~~Land Use Permit LUP-SZSL, Land Use Permit Application for School Zone Speed Limit (eff. 8/2024)~~

~~Land Use Permit LUP-SZPE, Land Use Permit Application for School Zone Photo Enforcement (eff. 8/2024)~~

~~Land Use Permit LUP-STSL, Land Use Permit Application for Small Transit Shelter (eff. 8/2024)~~

~~Land Use Permit LUP-LRSL, Land Use Permit Application for Locality Reduced Speed Limits as per § 46.2-1300 (eff. 8/2024)~~

~~Land Use Permit LUP-A, Land Use Permit Application (rev. 9/2014)~~

~~Land Use Permit LUP-AUA, Agricultural Use Agreement (rev. 8/2014)~~

~~Land Use Permit LUP-BMA, Land Use Permit Application—Building Movement (rev. 8/2014)~~

~~Land Use Permit LUP-BMI, Building Movement—Investigator's Report (rev. 8/2014)~~

~~Land Use Permit LUP-BMR, Building Movement—Route Certification (rev. 8/2014)~~

~~Land Use Permit LUP-BMQ, Building Movement—Prequalification Questionnaire (rev. 8/2014)~~

~~Land Use Permit LUP-BMV, Building Movement—VDOT Recommendation (rev. 8/2014)~~

Regulations

~~Land Use Permit LUP-CCV, Chemical Control of Vegetation (rev. 7/2015)~~

~~Land Use Permit LUP-CS, Cash Surety Affidavit (rev. 8/2014)~~

~~Land Use Permit LUP-CSB, Corporate Surety Bond (rev. 8/2014)~~

~~Land Use Permit LUP-CUA, Commercial Use Agreement (rev. 8/2014)~~

~~Land Use Permit LUP-ESCCC, Erosion & Sediment Control Contractor Certification (rev. 8/2014)~~

~~Land Use Permit LUP-IPP, Land Use Permit Application—In Place Utility, New Street Acceptance (rev. 8/2014)~~

~~Land Use Permit LUP-LC, Bank Irrevocable Letter of Credit (rev. 8/2014)~~

~~Land Use Permit LUP-MFV, Local Program for the Temporary Occupation of Right of Way by Mobile Food Vendors, (eff. 9/2015)~~

~~Land Use Permit LUP-OC, Open Cut Pavement Restoration Requirements (rev. 8/2014)~~

~~Land Use Permit LUP-PA, Permit Agreement for Occupation of Right of Way (rev. 8/2014)~~

~~Land Use Permit LUP-PRU, Land Use Permit Application—Prior Rights Utility (rev. 8/2014)~~

~~Land Use Permit LUP-SB, Surety Bond (rev. 8/2014)~~

~~Land Use Permit LUP-SEA, Special Events Approvals (rev. 8/2014)~~

~~Land Use Permit LUP-SEI, Special Event Information (rev. 8/2014)~~

~~Land Use Permit LUP-SPG, Special Provisions—General (rev. 8/2014)~~

~~Land Use Permit LUP-WZTCC, Work Zone Traffic Control Certification (rev. 8/2014)~~

~~Land Use Permit Resolution (rev. 8/2014)~~

[Land Use Permit LUP-A, Land Use Permit Application \(rev. 5/2023\)](#)

[Land Use Permit LUP-BM, Land Use Permit Application for Building Movements \(rev. 10/2024\)](#)

[Land Use Permit LUP-BR, Land Use Permit Application for Bicycle Race Events \(rev. 11/2024\)](#)

[Land Use Permit LUP-CFV, Land Use Permit Application for Mobile Food Vending in Commuter Lots \(rev. 10/2024\)](#)

[Land Use Permit LUP-CRI, Land Use Permit Application for Regional Cultural Resource Investigation \(rev. 10/2024\)](#)

[Land Use Permit LUP-CWOFC, Land Use Permit Application for Countywide Permit Overhead Fiber Co-Location \(rev. 10/2024\)](#)

[Land Use Permit LUP-DWSCF, Land Use Permit Application for Districtwide Wireless Small Cell Facilities \(rev. 10/2024\)](#)

[Land Use Permit LUP-DWSV, Land Use Permit Application for Districtwide Surveying Operations \(rev. 10/2024\)](#)

[Land Use Permit LUP-DWTLE, Land Use Permit Application for Districtwide Temporary Logging Entrances \(rev. 10/2024\)](#)

[Land Use Permit LUP-DWUSC, Land Use Permit Application for Districtwide Utility Service Connections \(rev. 10/2024\)](#)

[Land Use Permit LUP-EVTCS, Land Use Permit Application for Emergency Vehicle Traffic Control Signal \(rev. 10/2024\)](#)

[Land Use Permit LUP-GC, Land Use Permit Application for Golf Cart and Utility Vehicle Accommodation \(rev. 10/2024\)](#)

[Land Use Permit LUP-HRPE, Land Use Permit Application for Photo Enforcement of High-Risk Intersection Segments \(rev. 10/2024\)](#)

[Land Use Permit LUP-IPP, Land Use Permit Application In Place Utility \(New Street Acceptance\) \(rev. 8/2014\)](#)

[Land Use Permit LUP-IR, Land Use Permit Application for Private Irrigation System Installation \(rev. 10/2024\)](#)

[Land Use Permit LUP-LRSL, Land Use Permit Application for Locality Reduced Speed Limits \(rev. 10/2024\)](#)

[Land Use Permit LUP-LS, Land Use Permit Application for Landscape Installation and Maintenance \(rev. 10/2024\)](#)

[Land Use Permit LUP-LT, Land Use Permit Application for Lighting Installation \(rev. 10/2024\)](#)

[Land Use Permit LUP-MFV, Land Use Permit Application for Local Program for the Temporary Occupation of Right-of-Way by Mobile Food Vendors \(rev. 10/2024\)](#)

[Land Use Permit LUP-OAVC, Land Use Permit Application for Outdoor Advertising Vegetation Control \(rev. 10/2024\)](#)

[Land Use Permit LUP-OC, Land Use Permit Application Open Cut Pavement Restoration Requirements \(rev. 4/2017\)](#)

[Land Use Permit LUP-OTLP, Land Use Permit Application for One Time Litter Pickup \(rev. 12/2024\)](#)

[Land Use Permit LUP-PRC, Land Use Permit Application for Photo-Red Camera System Installation \(rev. 10/2024\)](#)

[Land Use Permit LUP-PRU, Land Use Permit Application Prior Rights Utility \(rev. 8/2014\)](#)

[Land Use Permit LUP-PSMD, Land Use Permit Application for Sign Installation for the Prohibition of Specific Mobility Devices \(rev. 10/2024\)](#)

[Land Use Permit LUP-WZSSC, Land Use Permit Application for Work Zone Speed Safety Cameras \(rev. 10/2024\)](#)

VA.R. Doc. No. R23-7620; Filed September 19, 2025, 7:28 a.m.

[Land Use Permit LUP-PU, Land Use Permit Application for Private Utility Service Crossing \(rev. 10/2024\)](#)

[Land Use Permit LUP-RM, Land Use Permit Application for Roadside Memorial Installation \(rev. 10/2024\)](#)

[Land Use Permit LUP-RWZU, Land Use Permit Application for Regional Work Zone Traffic Control for Utility Work Located off Right-of-Way \(rev. 10/2024\)](#)

[Land Use Permit LUP-SDS, Land Use Permit Application for Storm Drain Stenciling \(rev. 10/2024\)](#)

[Land Use Permit LUP-SE, Land Use Permit Application for Special Events \(rev. 11/2024\)](#)

[Land Use Permit LUP-STS, Land Use Permit Application for Small Transit Shelter \(rev. 10/2024\)](#)

[Land Use Permit LUP-SUSCF, Land Use Permit Application for Single-Use Permit Wireless Small Cell Facilities Co-Location \(rev. 11/2024\)](#)

[Land Use Permit LUP-SUSO, Land Use Permit Application for Surveying Operation \(rev. 11/2024\)](#)

[Land Use Permit LUP-SUTLE, Land Use Permit Application for Single-Use Temporary Logging Entrances \(rev. 11/2024\)](#)

[Land Use Permit LUP-SUWFC, Land Use Permit Application for Installation of Wireless Facility Co-Location \(rev. 11/2024\)](#)

[Land Use Permit LUP-SUWSS, Land Use Permit Application for Single Use Wireless Support Structure \(rev. 11/2024\)](#)

[Land Use Permit LUP-SWCD, Land Use Permit Application for Soil and Water Conservation District Sign Installation \(rev. 10/2024\)](#)

[Land Use Permit LUP-SZPE, Land Use Permit Application for School Zone Photo Enforcement \(rev. 10/2024\)](#)

[Land Use Permit LUP-SZSL, Land Use Permit Application for School Zone Speed Limit \(rev. 10/2024\)](#)

[Land Use Permit LUP-UT, Land Use Permit Application for Utility Installations \(rev. 10/2024\)](#)

[Land Use Permit LUP-UTT, Land Use Permit Application for Biennial Utility Tree Trimming Operations \(rev. 10/2024\)](#)

[Land Use Permit LUP-VCSB, Land Use Permit Application for Vegetation Control Single Business \(rev. 10/2024\)](#)

[Land Use Permit LUP-VM, Land Use Permit Application for Volunteer Mowing Activities \(rev. 10/2024\)](#)

[Land Use Permit LUP-WSP, Land Use Permit Application for Wayfinding Sign Program \(rev. 10/2024\)](#)

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

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

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Titles of Documents: [Early Intervention Practice Manual](#).

[Mobile Crisis Response Best Practices](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Susan Puglisi, Regulatory Research Specialist, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, Fourth Floor, Richmond, VA 23219, or email susan.puglisi@dbhds.virginia.gov.

BOARD FOR CONTRACTORS

Title of Document: [Board for Contractors Policies and Interpretations](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

STATE BOARD OF EDUCATION

Titles of Documents: [Board of Education Approved Courses to Satisfy Graduation Requirements for the Standard and Advanced Studies Diplomas in Virginia Public Schools](#).

[Career and Technical Education High-Quality Work-Based Learning Implementation Guide](#).

[Guidelines for Assessment Requirements for Virginia Licensure](#).

[Guidelines for Graduation Requirements: Local Alternative Paths to Standard Units of Credit \(Alternatives to the 140-Clock-Hour Requirement\)](#).

[Guidelines for Policies on Concussions in Students](#).

[Guidelines for Policies on Heat-Related Illness Prevention](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

BOARD OF JUVENILE JUSTICE

Title of Document: [Compliance Manual Regulation for Nonresidential Services](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice, 600 East Main Street, 20th Floor, Richmond, VA 23219, telephone (804) 773-0180, or email kristen.peterson@djj.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Hospital Manual Chapter 11](#).

[Long-Acting Injectables Supplement](#).

[Pharmacists as Providers Supplement](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, or email syreeta.stewart@dmass.virginia.gov.

REAL ESTATE BOARD

Title of Document: [Broker Price Opinion Guidance Document](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Title of Document: [Substance Abuse in the Workplace Guidance Document](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, Brookfield Building, 6606 West Broad Street, Suite 500, Richmond, VA 23230, telephone (804) 786-2392, or email cristin.bernhardt@doli.virginia.gov.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Document: [2026 Dam Safety, Flood Prevention and Protection Assistance Fund Grant Manual](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, or email lisa.mcgee@dcr.virginia.gov.

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies may have previously identified these documents as certified guidance documents, pursuant to [§ 2.2-4002.1](#) of the Code of Virginia. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to view the deleted document and comment. This information is also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact.

BOARD FOR BARBERS AND COSMETOLOGY

Titles of Documents: [Cosmetology Licensees Completing Training Prior to Straight Razor Requirement](#).

[Master Barber Applicants Who Have Already Completed Training Equivalent to the Master Barber Curriculum](#).

Public Comment Deadline: November 19, 2025.

Effective Date: December 1, 2025.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

CEMETERY BOARD

Titles of Documents: [Financial Report and Report Prepared by Independent Certified Public Accountant](#).

[Sample General Price List](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

BOARD FOR CONTRACTORS

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Title of Document: [Contractor License Requirement for Onsite Sewage System Maintenance](#).

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Children's Mental Health Program Manual](#).

[Children's Mental Health Program Chapter 2](#).

[Children's Mental Health Program Chapter 4](#).

[Children's Mental Health Program Chapter 5](#).

[Children's Mental Health Program Chapter 6](#).

[Children's Mental Health Program Chapter 7](#).

Guidance Documents

[Virginia Governor's Access Plan \(GAP\) Program Manual.](#)

[Elderly or Disabled with Consumer Directed Services.](#)

[Elderly or Disabled with Consumer Directed Services Manual
Chapter 2.](#)

[Elderly or Disabled with Consumer Directed Services Manual
Chapter 4.](#)

[Elderly or Disabled with Consumer Directed Services Manual
Chapter 5.](#)

[Elderly or Disabled with Consumer Directed Services Manual
Chapter 6.](#)

[Elderly or Disabled with Consumer Directed Services Manual
Chapter 7.](#)

[Elderly or Disabled with Consumer Directed Services Manual
Chapter 8.](#)

Public Comment Deadline: November 19, 2025.

Effective Date: November 20, 2025.

Agency Contact: Syreeta Stewart, Regulatory Coordinator,
Department of Medical Assistance Services, 600 East Broad
Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-
3863, or email syreeta.stewart@dmas.virginia.gov.

GENERAL NOTICES

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Decision on Proposed Variances to the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115) (Human Rights Regulations), is announcing a decision on an application for proposed variances to the Human Rights Regulations submitted to the State Human Rights Committee (SHRC). The purpose of the regulations is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application referenced the specific part of these regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application also described time limits and other conditions for duration and the circumstances that will end the applicability of the variance.

Purpose of notice: After considering all available information at its meeting on September 25, 2025, the SHRC voted to approve the application for variances to the Human Rights Regulations for the DBHDS Central State Hospital for a three-year period, with quarterly updates to the Local Human Rights Committee and annual updates to the SHRC.

I. Variance is requested to the following sections:

12VAC35-115-150, General provisions

12VAC35-115-175, Human rights complain process

12VAC35-115-180, Local human rights committee hearing and review procedures

12VAC35-115-190, Special procedures for emergency hearings by the LHRC

12VAC35-115-200, Special procedures for LHRC reviews involving consent and authorization

12VAC35-115-210, State Human Rights Committee appeals procedures

Explanation: CSH requests variances to the listed sections to allow alternative procedures for addressing complaints by individuals in maximum security when the individual is not satisfied with the director's response, so that the individual may

file a final appeal directly to the CSH Maximum Security Appeals Committee.

II. Variance is requested to the following section:

12VAC35-115-100, Restrictions on freedoms of everyday life, A 1 c, "freedom to have and spend personal money."

Explanation: The CSH variance to this regulation allows non-forensic patients to purchase items in a canteen and from external providers; however, individuals may not have personal possession of money within the secure perimeter.

III. Variance is requested to the following sections:

12VAC35-115-20, Policy, A 2, "Each individual who receives services shall be assured respect for basic human dignity."

12VAC35-115-50, Dignity, C 2 a, "each individual has the right to ... reasonable privacy...."

Explanation: The CSH variance to these regulations allows for routine pat-downs of fully clothed non-forensic individuals in secure programs (i) before and after group movement within a secure perimeter, (ii) anytime an individual leaves the secure perimeter, or (iii) any time an individual has physical access to a visitor who is not an employee of CSH. This will allow proactive routine searches of individuals' bedrooms to identify contraband or breaches of safety and security.

IV. Variance is requested to the following sections:

12VAC35-115-50, Dignity, C 6, "each individual has the right to... communicate privately with any person by mail and have help in writing and reading mail, as needed."

C 6 a, "An individual's access to mail may be limited only if the provider has reasonable cause to believe that the mail contains illegal material or anything dangerous. If so, the director or his designee may open the mail, but not read it, in the presence of the individual."

C 7, "each individual has the right to... communicate privately with any person by telephone and have help in doing so."

C 7 a, "An individual's access to the telephone may be limited only if, in the judgment of a licensed professional, communication with another person will result in demonstrable harm to the individual or significantly affect his treatment."

Explanation: The CSH variance to these subdivisions allows for staff to open, but not read, mail and packages in the presence of the individual in the maximum-security program. CSH also seeks to restrict individuals in the maximum-security forensic program from communicating with each other by mail or telephone.

Contact Information: Taneika Goldman, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988, fax (833) 734-1241, or email taneika.goldman@dbhds.virginia.gov.

General Notices

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for 1650 Cumberland Solar 1 LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for 1650 Cumberland Solar 1 LLC for violations of State Water Control Law and regulations and applicable permits at the 1650 Cumberland Solar facility located in Cumberland County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, to November 19, 2025.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

Proposed Enforcement Action for 1671 Cumberland Solar 1 LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for 1671 Cumberland Solar 1 LLC for violations of State Water Control Law statutes and regulations and applicable permit at the 1671 Cumberland Solar facility located in Cumberland County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, to November 19, 2025.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

Proposed Enforcement Action for C G Investments of Virginia LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for C G Investments of Virginia LLC for violations of the State Water Control Law and regulations in New Church, Virginia. The proposed order is available at the DEQ contact listed or online at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written from October 20, 2025, through November 19, 2025.

Contact Information: Russell Deppe, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for City of Franklin

The Department of Environmental Quality (DEQ) is proposing an enforcement action for the City of Franklin for violations of the State Water Control Law and regulations in Franklin, Virginia. The proposed order is available at the DEQ contact listed or online at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written from October 20, 2025, through November 19, 2025.

Contact Information: Russell Deppe, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Gardy's Mill Solar LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Gardy's Mill Solar LLC for violations of State Water Control Law and regulations at the Gardy's Mill Solar facility in Westmoreland County, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written comments from May 5, 2025, to June 4, 2025.

Contact Information: Matthew Richardson, Regional Enforcement and Construction Stormwater Program Manager, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060, telephone (804) 659-2696, or email matthew.richardson@deq.virginia.gov.

Proposed Enforcement Action for High Liner Foods (USA) Inc.

The Department of Environmental Quality (DEQ) is proposing an enforcement action for High Liner Foods (USA) Inc. for violations of the State Water Control Law and regulations in Newport News, Virginia. The proposed order is available at the DEQ contact listed or online at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written from October 20, 2025, through November 19, 2025.

Contact Information: Russell Deppe, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Koren Diversified Holdings LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Koren Diversified Holdings LLC for violations of State Water Control Law and regulations and applicable permit at the Koren Parcel B located in Mineral,

Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, to November 19, 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 NCN III Solar LLC

The Department of Environmental Quality (DEQ) is proposing an enforcement action for NCN III Solar LLC for violations of State Water Control Law and regulations and applicable permit at the NCN III Solar facility located in Richmond County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, to November 19, 2025.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

Proposed Enforcement Action for Robert D. and Angela S. Walk

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Robert D. and Angela S. Walk for violations of State Water Control Law and regulations and applicable permit at the Walk residence sewage treatment plant located in Stafford, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, to November 19, 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 Summit General Contractors Inc.

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Summit General Contractors Inc. for violations of the State Water Control Law and regulations in Carrollton, Virginia. A description of the proposed action is available at the DEQ contact listed or online at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept

written comments from October 20, 2025, through November 19, 2025.

Contact Information: Russell Deppe, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Town of Rural Retreat

The Department of Environmental Quality (DEQ) is proposing an enforcement action for the Town of Rural Retreat for violations of the State Water Control Law in Wythe County, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, through November 19, 2025.

Contact Information: John Brandt, Enforcement Specialist, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email john.brandt@deq.virginia.gov.

Proposed Enforcement Action for Virginia Electric and Power Company d/b/a Dominion Energy Virginia

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Virginia Electric and Power Company (VEPCO) d/b/a Dominion Energy Virginia for violations of State Water Control Law and regulations and applicable permits at solar projects in Virginia. The proposed action is a statewide consent order focused on VEPCO's compliance framework and is a companion order to site-specific consent orders that were executed on August 1, 2025. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from October 20, 2025, to November 19, 2025.

Contact Information: Kristen Sadtler, Enforcement Director, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, or email kristen.sadtler@deq.virginia.gov.

Proposed Enforcement Action for Vico Construction Corporation

The Department of Environmental Quality (DEQ) is proposing an enforcement action for Vico Construction 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 <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ

General Notices

contact will accept written comments from October 20, 2025, to November 19, 2025.

Contact Information: Russell Deppe, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Opportunity for Public Comment on Proposed State Implementation Air Quality Plan Revision

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA). The Commonwealth intends to submit a SIP revision to EPA in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Provisions affected: Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (9VAC5-91). There are also descriptive plan elements in addition to the regulation as discussed in this notice.

Purpose of notice: DEQ is seeking comment on the issue of whether the overall plan should be submitted to EPA as a revision to the Virginia SIP.

Public comment period: October 20, 2025, to November 21, 2025.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice and another 30-day comment period will be conducted.

Public comment stage: The amendments included in this plan have already been adopted by the State Air Pollution Control Board in accordance with the Code of Virginia; DEQ is accepting comment only on the issue cited under "purpose of notice" and not on the content of the amendments.

Description of proposal: Although the northern Virginia area is currently attaining the national standards for ozone (see, for example, the clean data determination issued by EPA on April 4, 2025, 90 FR 14730), the motor vehicle Inspections and Maintenance (I/M) Program, which is required by the Clean Air Act, has not been reviewed and evaluated at the federal level for many years. This new SIP submittal will enable Virginia to ensure that it has adopted all EPA amendments to Subpart S of 40 CFR Part 51, and to ensure that all SIP requirements for all state amendments to the state regulations

have been completed. This plan is administrative in nature and does not change any program or regulatory requirements or have any impacts on air quality. The following elements are included in the overall plan.

1. A description of each regulatory revision along with a copy of the amended text and the agency background document, which explains the legal basis for the revision.

2. A demonstration that Virginia's enhanced I/M program does not have an impact on § 110(l) of the Clean Air Act, which requires that no SIP revision interfere with any applicable requirement concerning attainment and reasonable further progress.

3. An analysis of Virginia's Onroad Clean Screen Program (RAPIDPASS) effectiveness.

4. Performance Standard Modeling (PSM) for both basic and enhanced I/M.

5. A description of multi-purpose I/M SIP elements as required by 40 CFR 51.372, § 110(l) of the Clean Air Act, and 89 FR 60898, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law.

How to comment: DEQ accepts written comments by email and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All materials received are part of the public record.

To review documents: The proposal and any supporting documents are available on the DEQ Air Public Notices website at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/air>. The documents may also be obtained by contacting the DEQ representative listed in this notice. The public may schedule an appointment to review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

1. Main Street Office, 22nd Floor, 1111 East Main Street, Richmond, VA, telephone (804) 698-4000; and

2. Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800.

Contact Information: Julia N. Wack, Renewable Energy Administrative Data Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 432-3581, or email julia.n.wack@deq.virginia.gov.

Public Meeting and Opportunity for Public Comment on a Cleanup Plan for Wolf Creek in Washington County

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup study, also known as a total maximum daily load (TMDL) report, for Wolf Creek in Washington County. This stream is listed as impaired since monitoring data does not meet Virginia's water quality standards for aquatic life (benthic macroinvertebrates). Section 303 (d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303 (d) list of impaired waters. A component of a cleanup study is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Code of Virginia for any future adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of the WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) permit in the Wolf Creek watershed.

A study has been completed for Wolf Creek to identify pollutant sources and recommend reductions needed from the sources to meet water quality standards. At the meeting, DEQ will present the results of the study and provide an overview of the draft report. Citizens are invited to provide comments on the study.

Cleanup study location: The cleanup study addresses the following impaired stream segments: lower mainstem from Town Creek confluence through the Great Knobs, downstream to upper Route 75 bridge (3.33 miles). From upper Route 75 bridge near Abingdon downstream to lower Route 75 bridge near Green Spring (2.93 miles). Lower end of Wolf Creek from lower Route 75 bridge near Green Spring downstream to South Holston Lake backwaters (0.41 miles). Wolf Creek drains most of the Town of Abingdon, Virginia, flows south, and empties into South Holston Lake.

Public meeting: The final public meeting on the development of the cleanup study will be held at Department of Environmental Quality, Abingdon Regional Office, 355-A Deadmore Street, Abingdon, VA 24210 on October 28, 2025, at 3 p.m. Participants should enter at the front entrance where the department will have someone there to check individuals in.

In the event of inclement weather, the meeting will be held October 29, 2025, at the same time and location stated.

TMDL community engagement meeting: TMDL community engagement meetings to assist in development of this cleanup study were convened on June 25, 2025, and February 26, 2025.

Public comment period: October 28, 2025, to December 5, 2025.

How to comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing address, and telephone number of the commenter or requester.

The public may review the cleanup study at <https://www.deq.virginia.gov/water/water-quality/tmdl-development/tmdls-under-development>.

Contact Information: Landon Jenkins, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, telephone (276) 608-8643, or email landon.jenkins@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Public Comment Opportunity for Updates to Form 460: Virginia Informed Choice Form

Notice of public comment period: The Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS) welcome public comment regarding potential updates to DMAS Form 460: Virginia Informed Choice Form. The DMAS 460 is used across the Community Living, Family and Individual Supports, and Building Independence Waivers. Drafts for review may be located at the following web addresses:

Service Selection Guide: https://dbhds.virginia.gov/wp-content/uploads/2025/07/Service-Selection-Guide-for-DD-Waivers_7.22.25-draft-for-review.pdf.

Virginia Informed Choice Form (DMAS 460): https://dbhds.virginia.gov/wp-content/uploads/2025/07/DMAS-460_Virginia-Informed-Choice-VIC-Form_7.22.25_draft-for-review.pdf.

Updates have been targeted at making the form more accessible and succinct. This notice serves to inform interested parties that the 30-day comment period opens September 22, 2025, and closes October 22, 2025.

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@dmass.virginia.gov.

Notice of Public Comment Period for Mental Health Case Management

As part of Right Help, Right Now Medicaid Behavioral Health Services Redesign, the Department of Medical Assistance Services (DMAS) is updating service requirements for mental health case management. Mental health case management providers are limited to Community Services Boards (CSBs).

General Notices

DMAS is seeking public comment on an update to the Mental Health Case Management section of the Case Management Appendix (Appendix I) to the Mental Health Services manual, available at <https://www.dmas.virginia.gov/media/uwsngjb2/mental-health-case-management-h0023-09-26-2025.pdf>.

Additional information on the Right Help, Right Now Medicaid Behavioral Health Services Redesign is available on the DMAS website 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.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.