



VIRGINIA

REGISTER OF REGULATIONS

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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. McDougle; 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>).

February 2026 through February 2027

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
43:8	November 10, 2026 (Tuesday)	November 30, 2026
43:9	November 23, 2026 (Monday)	December 14, 2026
43:10	December 9, 2026	December 28, 2026
43:11	December 21, 2026 (Monday)	January 11, 2027
43:12	January 5, 2027 (Tuesday)	January 25, 2027
43:13	January 20, 2027	February 8, 2027
43:14	February 3, 2027	February 22, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Initial Agency Notice

Title of Regulation: **4VAC20-1270. Pertaining to Atlantic Menhaden.**

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

Name of Petitioner: Tanya O'Connor.

Nature of Petitioner's Request: The petitioner requests that the commission:

1. Grant this petition by adopting a temporary moratorium on purse-seine reduction fishing for menhaden within the Chesapeake Bay and initiating rulemaking to amend 4VAC20-1270-35.
2. Maintain the moratorium until the commission has affirmatively demonstrated, on the administrative record, compliance with all applicable statutory and public-trust obligations, including that the commission has:

a. Determined bay-specific menhaden abundance and bay-specific ecological dependence, including the needs of predator species, juvenile life stages, and dependent fisheries within the Chesapeake Bay, consistent with § 28.2-201 and subdivision 2 of § 28.2-203 of the Code of Virginia;

b. Demonstrated, on the administrative record, compliance with the mandatory requirements of § 28.2-204.1 of the Code of Virginia by evaluating, before authorizing industrial menhaden removal, the impacts on species and fisheries, age structure, and the abundance of the resource;

c. Demonstrated compliance with all fishery management standards set forth in § 28.2-203, including: (i) prevention of overfishing while achieving optimum yield (subdivision 1); (ii) reliance on the best scientific, economic, biological, and sociological information available (subdivision 2); (iii) management of individual and interrelated stocks as a unit, including forage-dependent predator species (subdivision 3); (iv) fair, equitable, and non-discriminatory management measures that do not grant excessive fishing privileges (subdivision 4); (v) promotion of efficient utilization of fishery resources without economic allocation as the sole purpose (subdivision 5); (vi) consideration of variations among and contingencies in fisheries, fishery resources, and catches (subdivision 6); and (vii) minimization of unnecessary regulatory burdens while still achieving conservation objectives (subdivision 7);

d. Demonstrated compliance with § 28.2-204 of the Code of Virginia by obtaining or commissioning necessary fisheries data and implementing independent monitoring, verification,

and enforcement mechanisms sufficient to ensure compliance with any future authorization of industrial menhaden removals, including verification of landings, bycatch, juvenile impacts, and cumulative removals across fisheries; and

e. Demonstrated satisfaction of interstate conservation responsibilities, including documented evaluation of cross-jurisdictional ecological and economic impacts within the Chesapeake Bay, consistent with Virginia's obligations under the Atlantic States Marine Fisheries Compact (§ 28.2-1000 of the Code of Virginia), which is an interstate marine fisheries compact.

The petitioner does not request a specific numerical quota and requests that no industrial reduction fishing resume until these conditions are satisfied.

Agency Plan for Disposition of Request: The Virginia Marine Resources Commission is submitting notice of the petition for publication in the Virginia Register of Regulations and announcing a public comment period. Following receipt of comments on the petition, the commission will review the petition.

Public Comment Deadline: February 17, 2026.

Agency Contact: Benjamin Foster, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA, 23651, telephone (757) 247-2200, telephone (757) 247-2200, fax (757) 247-2002, or email benjamin.foster@mrc.virginia.gov.

V.A.R. Doc. No. PFR26-20; Filed December 31, 2025, 9:25 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Initial Agency Notice

Title of Regulation: **8VAC20-671. Regulations Governing the Operation of Private Schools for Students with Disabilities.**

Statutory Authority: §§ 22.1-16 and 22.1-321 of the Code of Virginia.

Name of Petitioner: Lucinda Jones.

Nature of Petitioner's Request: The petitioner requests that the State Board of Education amend 8VAC20-671-10, 8VAC20-671-30, and 8VAC20-671-50. The current term "private school for students with disabilities" should be replaced with a more accurate term that reflects funding and governance realities. Suggested alternatives include "nonpublic school for students with disabilities" or "alternative school for students with disabilities."

Petitions for Rulemaking

Background: The term "private school for students with disabilities" is misleading because these schools are not private in the traditional sense. Parents do not pay tuition; placements and tuition are funded by local education agencies (LEAs) under an individualized education program (IEP). These schools are state-licensed and regulated by the Department of Education, not independent private institutions.

Requested amendments:

1. In 8VAC20-671-10: Replace "private school for students with disabilities" with "nonpublic school for students with disabilities" or "alternative school for students with disabilities."
2. In 8VAC20-671-30 and 8VAC20-671-50: Update references to reflect the new terminology consistently.

Rationale for terminology consistency: The current term suggests private funding, which is inaccurate. These schools operate under state licensure and LEA contracts.

Rationale for regulatory precision: Updating terminology will reduce confusion in grants, professional development eligibility, and public understanding.

Proposed wording: "nonpublic school for students with disabilities" or "alternative school for students with disabilities" means a school licensed under 8VAC20-671 and defined per 8VAC20-671-10, serving students placed by LEAs under an individualized education program with tuition paid by the LEA.

Examples of current usage: Several schools and facilities currently use the word "private" in their name or description, including: (i) Virginia Home for Boys and Girls (John G. Wood School): "GW accepts students with 'private day school' designations on their individualized education plans (IEPs) and serves individuals with a range of abilities, including autism and intellectual disabilities"; and (ii) Shineforth (formerly United Methodist Family Services): "Shineforth is a nonprofit organization in Virginia that provides foster care, residential treatment, and private day school for students with disabilities."

These examples illustrate how the term "private" persists in branding and public perception, even though these schools are state-licensed and funded by LEAs, not by parent tuition.

Conclusion: Updating these sections will align the petition with department guidance, ensure legal accuracy, and clarify the nature of these schools for stakeholders.

Agency Plan for Disposition of Request: The State Board of Education will consider the petition and all comments in support or opposition at the next meeting after the close of public comment. That meeting is currently scheduled for March 26, 2026. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: February 16, 2026.

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.

V.A.R. Doc. No. PFR26-19; Filed December 22, 2025, 3:12 p.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

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: **22VAC40-705, Child Protective Services**. The review will be guided by the principles in Executive Order 19 (2022). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins January 26, 2026, and ends February 16, 2026.

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: Shannon Hartung, Child Protective Services Program Manager, Department of Social Services, 4600 Cox Road, Glen Allen, VA 23060, telephone (804) 726-7554, fax (804) 726-7499, or email shannon.hartung1@dss.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Criminal Justice Services Board intends to consider promulgating **6VAC20-105, Compulsory Minimum Training Standards for Detector Canine Handlers Employed by the Department of Corrections; Standards for the Training and Retention of Detector Canines**. The purpose of the proposed action is to establish new regulatory requirements for (i) standards for training and retention of detector canines used by the Department of Corrections; and (ii) compulsory minimum training standards for detector canine handlers employed by the Department of Corrections.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public Comment Deadline: February 25, 2026.

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

V.A.R. Doc. No. R22-6813; Filed January 5, 2026, 11:38 a.m.

REGULATIONS

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

Symbol Key

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

Notice of Objection to Fast-Track Rulemaking Action

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Objection to Fast-Track Rulemaking Action

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the State Board of Education has filed a notice of objection to the fast-track rulemaking action published in [42:7 V.A.R. 845-851 November 17, 2025](#). The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Title of Regulation: [8VAC20-780. Standards for Licensed Child Day Centers \(amending 8VAC20-780-40, 8VAC20-780-245, 8VAC20-780-510\)](#).

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

The State Board of Education received more than the requisite 10 objections to the amendments. The objections to the proposed regulation are that it is unsafe, financially burdensome, and beyond the scope of childcare staff. Comments (i) emphasize that educators are not medical professionals and (ii) express concerns about liability for administering prescription medication without a diagnosis and the high recurring cost of EpiPens. Due to the objections, the board has discontinued using the fast-track rulemaking process. The board will proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, and the publication on November 17, 2025, will serve as the Notice of Intended Regulatory Action in accordance with § 2.2-4012.1 of the Code of Virginia.

Agency Contact: Tatanishia Armstrong, Legislative Consultant, Office of Child Care Health and Safety, Department of Education, 101 North 14th Street, 14th Floor, Richmond, VA 23219, telephone (804) 382-5047, or email tatanishia.armstrong@doe.virginia.gov.

V.A.R. Doc. No. R26-7599; Filed December 29, 2025, 1:16 p.m.

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the State Board of Education has filed a notice of objection to the fast-track rulemaking action published in [42:7 V.A.R. 851-859 November 17, 2025](#). The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Title of Regulation: [8VAC20-790. Child Care Program \(amending 8VAC20-790-250, 8VAC20-790-350, 8VAC20-790-400, 8VAC20-790-520, 8VAC20-790-600, 8VAC20-790-770\)](#).

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

The State Board of Education received more than the requisite 10 objections to the amendments. The objections to the proposed regulation are that it is unsafe, financially burdensome, and beyond the scope of childcare staff. Comments (i) emphasize that educators are not medical professionals and (ii) express concerns about liability for administering prescription medication without a diagnosis and the high recurring cost of EpiPens. Due to the objections, the board has discontinued using the fast-track rulemaking process. The board will proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, and the publication on November 17, 2025, will serve as the Notice of Intended Regulatory Action in accordance with § 2.2-4012.1 of the Code of Virginia.

Agency Contact: Tatanishia Armstrong, Legislative Consultant, Office of Child Care Health and Safety, Department of Education, 101 North 14th Street, 14th Floor, Richmond, VA 23219, telephone (804) 382-5047, or email tatanishia.armstrong@doe.virginia.gov.

V.A.R. Doc. No. R26-7611; Filed December 29, 2025, 1:18 p.m.

Notice of Objection to Fast-Track Rulemaking Action

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the State Board of Education has filed a notice of objection to the fast-track rulemaking action published in [42:7 V.A.R. 859-862 November 17, 2025](#). The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Title of Regulation: **8VAC20-800. Standards for Licensed Family Day Homes (amending 8VAC20-800-70, 8VAC20-800-220).**

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

The State Board of Education received more than the requisite 10 objections to the amendments. The objections to the proposed regulation are that it is unsafe, financially burdensome, and beyond the scope of childcare staff. Comments (i) emphasize that educators are not medical professionals and (ii) express concerns about liability for administering prescription medication without a diagnosis and the high recurring cost of EpiPens. Due to the objections, the board has discontinued using the fast-track rulemaking process. The board will proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, and the publication on November 17, 2025, will serve as the Notice of Intended Regulatory Action in accordance with § 2.2-4012.1 of the Code of Virginia.

Agency Contact: Alyson Williams, Legislative Consultant, Office of Child Care Health and Safety, Department of Education, 101 North 14th Street, 14th Floor, Richmond, VA 23219, telephone (804) 774-6273, or email alyson.williams@doe.virginia.gov.

V.A.R. Doc. No. R26-7612; Filed December 29, 2025, 1:19 p.m.

Notice of Objection to Fast-Track Rulemaking Action

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the State Board of Education has filed a notice of objection to the fast-track rulemaking action published in [42:7 V.A.R. 862-865 November 17, 2025](#). The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia, with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Title of Regulation: **8VAC20-850. Voluntary Registration of Family Day Homes - Requirements for Providers (amending 8VAC20-850-20, 8VAC20-850-90).**

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

The State Board of Education received the requisite 10 objections to the amendments. The objections describe concerns about safety, liability, the medical judgment required for childcare staff to make determinations for children who may not be able to clearly communicate symptoms, and cost. Due to the objections, the board has discontinued using the fast-track rulemaking process. The board will proceed with adoption of the amendments using the standard process under Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, and the publication on November 17, 2025, will serve as the Notice of Intended Regulatory Action in accordance with § 2.2-4012.1 of the Code of Virginia.

Agency Contact: Alyson Williams, Legislative Consultant, Office of Child Care Health and Safety, Department of Education, 101 North 14th Street, 14th Floor, Richmond, VA 23219, telephone (804) 774-6273, or email alyson.williams@doe.virginia.gov.

V.A.R. Doc. No. R26-7613; Filed December 29, 2025, 1:22 p.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Virginia Waste Management Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC20-110. Regulations Governing the Transportation of Hazardous Materials (amending 9VAC20-110-110).**

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Effective Date: February 25, 2026.

Agency Contact: Ashby Scott, Hazardous Waste Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23218, telephone (804) 350-5623, or email ashby.scott@deq.virginia.gov.

Summary:

The amendment updates the regulation to incorporate by reference the amendments to Title 49 of the Code of Federal Regulations as published on October 1, 2025.

9VAC20-110-110. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the U.S. Secretary of Transportation with amendments promulgated as of October 1, 2024 2025, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below and which are incorporated in these regulations by reference:

1. Special Permits. 49 CFR Part 107, Subpart B.
2. Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers in 49 CFR Part 107, Subpart F.

3. Registration of Persons Who Offer or Transport Hazardous Materials in 49 CFR Part 107, Subpart G.

4. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.

5. Specifications for Packagings in 49 CFR Part 178.

6. Specifications for Tank Cars in 49 CFR Part 179.

7. Continuing Qualification and Maintenance of Packagings in 49 CFR Part 180.

8. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

V.A.R. Doc. No. R26-8430; Filed December 29, 2025, 9:03 a.m.

STATE WATER CONTROL BOARD

Final Regulation

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

Title of Regulation: 9VAC25-720. Water Quality Management Planning Regulation (amending 9VAC25-720-50, 9VAC25-720-60, 9VAC25-720-90).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Effective Date: February 25, 2026.

Agency Contact: Justin Williams, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1125, or email justin.williams@deq.virginia.gov.

Summary:

The amendments (i) add three new total maximum daily load (TMDL) wasteload allocations (WLAs) in the Potomac Shenandoah River Basin, (ii) add 13 new WLAs in the James River Basin, and (iii) remove four WLAs and add seven new WLAs in the Tennessee Big Sandy River Basin.

9VAC25-720-50. Potomac-Shenandoah River Basin.

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA ¹	Units
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EDITOR'S NOTE: Rows 1 through 220 of 9VAC25-720-50 A are not amended; therefore, the text of those rows is not set out.

221.	Crooked Run	<u>Benthic TMDL Development for Crooked Run, Stony Creek and Pughs Run Located in Shenandoah County, Virginia</u>	Shenandoah	B48R	Sediment	12,291	lbs/year
222.	Stony Creek	<u>Benthic TMDL Development for Crooked Run, Stony Creek and Pughs Run Located in Shenandoah County, Virginia</u>	Shenandoah	B49R	Sediment	431,000	lbs/year

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223.	<u>Pughs Run</u>	<u>Benthic TMDL Development for Crooked Run, Stony Creek and Pughs Run Located in Shenandoah County, Virginia</u>	<u>Shenandoah</u>	<u>B50R</u>	<u>Sediment</u>	<u>22,960</u>	<u>lbs/year</u>
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Notes:

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

²There were no point source dischargers in the modeled TMDL area.

EDITOR'S NOTE: Subsections B and C of 9VAC25-720-50 are not amended; therefore, those subsections are not set out.

9VAC25-720-60. James River Basin.

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA ¹	Units
<u>EDITOR'S NOTE:</u> Rows 1 through 197 of 9VAC25-720-60 A are not amended; therefore, the text of those rows is not set out.							
198.	<u>Black Creek</u>	<u>Benthic TMDL Development for Black Creek and Hat Creek Watersheds Located in Nelson County, Virginia</u>	<u>Nelson</u>	<u>H09R</u>	<u>Sediment</u>	<u>30,730</u>	<u>lbs/year</u>
199.	<u>Hat Creek</u>	<u>Benthic TMDL Development for Black Creek and Hat Creek Watersheds Located in Nelson County, Virginia</u>	<u>Nelson</u>	<u>H09R</u>	<u>Sediment</u>	<u>45,461</u>	<u>lbs/year</u>
200.	<u>Black Creek</u>	<u>Benthic TMDL Development for Black Creek and Hat Creek Watersheds Located in Nelson County, Virginia</u>	<u>Nelson</u>	<u>H09R</u>	<u>Phosphorus</u>	<u>712</u>	<u>lbs/year</u>
201.	<u>Deep Run</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Henrico, Richmond City</u>	<u>H39R</u>	<u>Sediment</u>	<u>319,359</u>	<u>lbs/year</u>
202.	<u>Stony Run</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Henrico</u>	<u>H39R</u>	<u>Sediment</u>	<u>140,916</u>	<u>lbs/year</u>
203.	<u>Stony Run UT</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Henrico</u>	<u>H39R</u>	<u>Sediment</u>	<u>32,745</u>	<u>lbs/year</u>
204.	<u>Dover Creek</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Goochland</u>	<u>H39R</u>	<u>Sediment</u>	<u>38,769</u>	<u>lbs/year</u>
205.	<u>Upham Brook</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County,</u>	<u>Henrico, Richmond City</u>	<u>G05R</u>	<u>Sediment</u>	<u>372,238</u>	<u>lbs/year</u>

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		<u>Goochland County, and the City of Richmond</u>					
<u>206.</u>	<u>North Run</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Henrico</u>	<u>G05R</u>	<u>Sediment</u>	<u>363,179</u>	<u>lbs/year</u>
<u>207.</u>	<u>Jordans Branch</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Richmond City</u>	<u>G05R</u>	<u>Sediment</u>	<u>88,183</u>	<u>lbs/year</u>
<u>208.</u>	<u>Stony Run</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Henrico</u>	<u>H39R</u>	<u>Phosphorus</u>	<u>121.6</u>	<u>lbs/year</u>
<u>209.</u>	<u>Dover Creek</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Goochland</u>	<u>H39R</u>	<u>Phosphorus</u>	<u>41.6</u>	<u>lbs/year</u>
<u>210.</u>	<u>Upham Brook</u>	<u>Benthic TMDL Study on Deep Run, Dover Creek, and Upham Brook Watersheds in Henrico County, Goochland County, and the City of Richmond</u>	<u>Henrico</u>	<u>G05R</u>	<u>Phosphorus</u>	<u>2,693.8</u>	<u>lbs/year</u>

Notes:

¹ The total WLA can be increased prior to modification provided that the Department of Environmental Quality tracks these changes for bacteria TMDLs where the permit is consistent with water quality standards for bacteria.

2 GS means growing season.

EDITOR'S NOTE: Subsections B and C of 9VAC25-720-60 are not amended; therefore, those subsections are not set out.

9VAC25-720-90. Tennessee-Big Sandy River Basin.

A. Total maximum daily loads (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA ¹	Units
1.	Guest River	Guest River Total Maximum Load Report	Wise	P11R	Sediment	317.92	LB/YR
2.	<u>Cedar Creek Reserved</u>	<u>Total Maximum Daily Load (TMDL) Development for Cedar Creek, Hall/Byers Creek and Hutton Creek</u>	<u>Washington</u>	<u>005R</u>	<u>Sediment</u>	<u>1,789.93</u>	<u>LB/YR</u>
3.	<u>Hall/Byers Creek Reserved</u>	<u>Total Maximum Daily Load (TMDL) Development for Cedar Creek, Hall/Byers Creek and Hutton Creek</u>	<u>Washington</u>	<u>005R</u>	<u>Sediment</u>	<u>57,533.49</u>	<u>LB/YR</u>

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4.	<u>Hutton Creek Reserved</u>	<u>Total Maximum Daily Load (TMDL) Development for Cedar Creek, Hall/Byers Creek and Hutton Creek</u>	<u>Washington</u>	<u>O05R</u>	<u>Sediment</u>	<u>91.32</u>	<u>LB/YR</u>
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EDITOR'S NOTE: Rows 5 through 15 of 9VAC25-720-90 A are not amended; therefore, the text of those rows is not set out.

16.	<u>Middle Fork Holston River Reserved</u>	<u>Bacteria and Benthic Total Maximum Daily Load Development for Middle Fork Holston River</u>	<u>Washington, Smyth</u>	<u>O05R</u>	<u>Sediment</u>	<u>100.4</u>	<u>T/YR</u>
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EDITOR'S NOTE: Rows 17 through 81 of 9VAC25-720-90 A are not amended; therefore, the text of those rows is not set out.

82.	<u>Tattle Branch</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Washington</u>	<u>O05R</u>	<u>Sediment</u>	<u>29,851</u>	<u>lbs/year</u>
83.	<u>Hall Creek</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Washington</u>	<u>O05R</u>	<u>Sediment</u>	<u>133,680</u>	<u>lbs/year</u>
84.	<u>Byers Creek</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Washington</u>	<u>O05R</u>	<u>Sediment</u>	<u>36,679</u>	<u>lbs/year</u>
85.	<u>Cedar Creek</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Washington</u>	<u>O05R</u>	<u>Sediment</u>	<u>12,926</u>	<u>lbs/year</u>
86.	<u>Upper Middle Fork Holston River</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Smyth, Wythe</u>	<u>O03R</u>	<u>Sediment</u>	<u>53,403</u>	<u>lbs/year</u>
87.	<u>Lower Middle Fork Holston (upstream of Route 91)</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Smyth, Washington, Wythe</u>	<u>O05R</u>	<u>Sediment</u>	<u>1,464,062</u>	<u>lbs/year</u>
88.	<u>Lower Middle Fork Holston (Route 91 to Edmondson Dam)</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Washington</u>	<u>O05R</u>	<u>Sediment</u>	<u>963,597</u>	<u>lbs/year</u>

89.	<u>Greenway Creek</u>	<u>Benthic TMDL Revision and Development for the Middle Fork Holston and Tributaries Located in Smyth, Washington, and Wythe Counties</u>	<u>Washington</u>	<u>005R</u>	<u>Sediment</u>	<u>46,798</u>	<u>lbs/year</u>
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Notes:

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

EDITOR'S NOTE: Subsection B of 9VAC25-720-90 is not amended; therefore, the subsection is not set out.

V.A.R. Doc. No. R26-8476; Filed January 2, 2026, 9:23 a.m.

Final Regulation

Title of Regulation: **9VAC25-875. Virginia Erosion and Stormwater Management Regulation (amending 9VAC25-875-1360, 9VAC25-875-1380 through 9VAC25-875-1420; adding 9VAC25-875-1375).**

Statutory Authority: §§ 62.1-44.15:28 and 62.1-44.15:52 of the Code of Virginia.

Effective Date: July 1, 2026.

Agency Contact: April Rhodes, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (571) 866-6091, or email april.rhodes@deq.virginia.gov.

Summary:

The amendments conform the Virginia Erosion and Stormwater Management (VESM) Regulation (9VAC25-875) to Item 363 J of Chapter 2 of the 2024 Acts of Assembly, Special Session I by (i) setting the existing statewide permit fee schedules for the Virginia Erosion and Stormwater Management Program Permit for Discharges of Stormwater from Construction Activities, MS4 permits, permit modification or transfer, and permit maintenance to an amount representing no less than 60% but not more than 62% of the direct costs for the administration, compliance, and enforcement of such permits; (ii) adding a consumer price index annual adjustment factor to provide a mechanism to ensure that fees keep pace with the costs of doing business; and (iii) increasing to 30% the portion of the total permit fee paid to the Department of Environmental Quality (DEQ) by local VESM Program authorities.

Changes to the proposed regulation, which are nonsubstantive, clarify that (i) the end of the 12-month period being used for adjustment is June 30 in order to use the average Consumer Price Index for the period that ends one year before the adjusted fees become effective and (ii) in the instances DEQ serves as VESM Program authority, it will receive the full permit fee.

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.

9VAC25-875-1360. Deposit and use of fees.

A. All fees collected by the department pursuant to this chapter shall be deposited into the Virginia Stormwater Management Fund and shall be used and accounted for as specified in § 62.1-44.15:29 of the Code of Virginia. Fees collected by the department shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

B. All fees collected by a VESMP authority pursuant to this chapter shall be subject to accounting review and shall be used solely to carry out the VESMP authority's responsibilities pursuant to the VESMA, Article 3 (9VAC25-875-100 et seq.) of Part II (9VAC25-875-40 et seq.) and Part V (9VAC25-875-470 et seq.) of this chapter, local ordinances, or standards and specifications.

Pursuant to subdivision A 9 of § 62.1-44.15:28 of the Code of Virginia, whenever the department has authorized the administration of a VESMP by a VESMP authority, 28% 30% of the total revenue generated by the statewide stormwater management fees collected in accordance with 9VAC25-875-1400 shall be remitted on a schedule determined by the department to the State Treasurer for deposit in the Virginia Stormwater Management Fund unless otherwise collected electronically. If the VESMP authority waives or reduces any fee due in accordance with 9VAC25-875-1400, the VESMP authority shall remit the 28% 30% portion that would be due to the Virginia Stormwater Management Fund if such fee were charged in full. Any fee increases established by the VESMP authority beyond the base fees established in this part shall not be subject to the fee distribution formula.

9VAC25-875-1375. Fee calculation.

A. Fees set forth in sections 9VAC25-875-1380, 9VAC25-875-1400, and 9VAC25-875-1420 shall be adjusted annually

by the change in the Consumer Price Index (CPI). The Consumer Price Index, [is as used for this adjustment, refers to] the [average] Consumer Price Index for all-urban consumers [CPI-U] for the 12-month period ending on [April June] 30 of the calendar year preceding the year the fee is due. The Consumer Price Index for all-urban consumers is published by the U.S. Department of Labor, Bureau of Labor Statistics, U.S. All items, CUUR0000SA0. [The department shall calculate the adjusted fees using the CPI by January 1 each year and the adjusted fees shall be effective beginning July 1 of the same year.]

B. The permit fee due shall be calculated according to the following formulas:

$$F = B \times C$$

$$C = 1 + \Delta CPI$$

Editor's Note: The figure in subsection B that displays the equation containing the number 314.54 is being stricken. The figure that displays the equation containing the number 309.57 is being added.

$$\Delta CPI = \frac{(CPI-U - 314.54)}{314.54}$$

$$\Delta CPI = \frac{(CPI-309.57)}{309.57}$$

Where:

F = the permit fee due (in \$)

B = the base fee rate for the type of MS4 or Construction General Permit

C = the Consumer Price Index adjustment factor

ΔCPI = the difference between [CPI-U CPI] and [314.54 309.57], expressed as a proportion of [314.54 309.57] (the reference base is 1982-84 = 100; [314.54 309.57] is the unadjusted [12-month] average CPI for all urban consumers for July [2023 through June] 2024)

[CPI-U CPI] = the [average of the] Consumer Price Index for all-urban consumers [CUUR0000SA0] for the 12-month period ending on [April June] 30 of the calendar year preceding the year the fee is due [CUUR0000SA0].

For example, if calculating the hypothetical [2026 2027] permit fee (F) for a General / Stormwater Management – Large Construction Activity/Land Clearing permit (> 5 acres < 10 acres):

[CPI-U CPI] = 317.67 (hypothetical [CPI-U CPI] for [April the 12-month period ending on June] 30, [2025 2026], which would be used for the [2026 2027] permit fee calculation).

$\Delta CPI = [0.01 \text{ for the 2026 permit fee calculation (i.e., } (317.67 - 314.54) / 314.54 = (3.13) / 314.54 = 0.01 \text{) } 0.03 \text{ for the 2027 permit fee calculation (i.e., } (317.67 - 309.57) / 309.57 = (8.10) / 309.57 = 0.03 \text{) }]$

$C = [1 + 0.01 \text{ } 0.03]$ for the [2026 2027] permit fee calculation (i.e., $1 + [0.01 \text{ } 0.03] = [1 + 0.01 \text{ } 0.03]$).

$B = \$5,100$ (i.e. the fee for a General / Stormwater Management – Large Construction Activity/Land Clearing permit (> 5 acres < 10 acres), taken from subsection A of 9VAC25-875-1400).

$F = [\$5,151 \text{ } \$5,253]$ for the hypothetical [2026 2027] permit fee calculation for this General / Stormwater Management – Large Construction Activity/Land Clearing permit (i.e., $\$5,100 \times [1 + 0.01 \text{ } 0.03] = [\$5,150.75 \text{ } \$5,253.00]$).

C. Permit fees (F) calculated for each facility or permitted land-disturbing activity shall be rounded to the nearest dollar.

D. The total amount of permit fees collected by the department (permit application fees plus permit maintenance fees) shall not exceed 62% of direct costs for administration, compliance, and enforcement of MS4 permits and VPDES Permits for Discharges of Stormwater from Construction Activities. The director shall take whatever action is necessary to ensure that this limit is not exceeded.

9VAC25-875-1380. Fee schedules for municipal separate storm sewer system new permit issuance.

A. The following fee schedule applies to permit applications for issuance of a new individual municipal separate storm sewer system permit or coverage under a MS4 General Permit. All regulated MS4s that apply for joint coverage under an individual permit or general permit registration shall each pay the appropriate fees set out in the following table.

Municipal Stormwater / MS4 Individual (Large and Medium)	\$16,000 \$25,000
Municipal Stormwater / MS4 Individual (Small)	\$8,000 \$13,000
Municipal Stormwater / MS4 General Permit (Small)	\$4,000 \$6,500

B. The amount of the permit fee due for a MS4 permit for a specified year as required by subsection A of this section shall be calculated according to the formulas in 9VAC25-875-1375 B.

9VAC25-875-1390. Fee schedules for major modification of MS4 individual permits requested by the operator.

The following fee schedule applies to applications for major

modification of an individual MS4 permit requested by the permittee:

Municipal Stormwater / MS4 Individual (Large and Medium)	\$5,000 \$8,000
Municipal Stormwater / MS4 Individual (Small)	\$2,500 \$4,000

9VAC25-875-1400. Fees for individual permit or coverage under the General Permit of or for Discharges of Stormwater from Construction Activities.

A. The following total fees to be paid by an applicant apply to any operator seeking coverage under a General VPDES Permit for Discharges of Stormwater from Construction Activities or a state agency or federal entity that does not file standards and specifications or an individual permit issued by the department.

On and after approval by the department of or a VESMP authority for coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the total fee to be paid by an applicant set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with 9VAC25-875-530. The remaining total fee balance to be paid by an applicant shall be due prior to the issuance of coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities.

When a site is purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of the applicant's site according to the following table.

Fee type	Total fee to be paid by applicant (includes both VESMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on <u>28%</u> <u>30%</u> of total fee paid*)
Land-Disturbing Activity in a Chesapeake Bay Preservation Area (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than one acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land-Disturbing Activity in a Chesapeake Bay Preservation Area (not subject to General Permit coverage)/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than five acres)	\$209	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures)	\$290 <u>\$450</u>	<u>\$81</u> <u>\$135</u>
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres)	\$2,700 <u>\$4,100</u>	<u>\$756</u> <u>\$1,230</u>
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$3,400 <u>\$5,100</u>	<u>\$952</u> <u>\$1,530</u>
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500 <u>\$6,800</u>	<u>\$1,260</u> <u>\$2,040</u>

General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100 <u>\$9,100</u>	\$1,708 <u>\$2,730</u>
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$9,600 <u>\$14,300</u>	\$2,688 <u>\$4,290</u>
Individual VPDES Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000 <u>\$24,000</u>	\$15,000 <u>\$24,000</u>
[*] If the project is completely administered by the department such as may be the case [<u>where the department is the VSMP authority, the VESMP authority</u>] for a state or federal project [,] or projects covered by individual permits, the entire applicant fee shall be paid to the department.		

The following fees apply to coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities issued by the department for a state agency or federal entity that has standards and specifications approved by the department.

General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or common plans of development equal to or greater than five acres)	\$750 <u>\$1,200</u>
General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450 <u>\$700</u>

B. The amount of the permit fee due for a General VPDES Permit for Discharges of Stormwater from Construction Activities for a specified year as required by subsection A of this section shall be calculated according to the formulas in 9VAC25-875-1375 B.

9VAC25-875-1410. Fees for the modification or transfer of individual permits or of registration statements for the General VPDES Permit for Discharges of Stormwater from Construction Activities.

The following fees apply to modification or transfer of individual permits or of registration statements for the General VPDES Permit for Discharges of Stormwater from Construction Activities issued by the department. If the permit modifications result in changes to stormwater management plans that require additional review by the VESMP authority [or the department as the VSMP or VESMP authority], such reviews shall be subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the

difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in 9VAC25-875-1400. No modification or transfer fee shall be required until such department-approved programs exist. These fees shall only be effective when assessed by a VESMP authority [, including or] the department [when acting in that capacity, that has been approved by the department as the VSMP or VESMP authority]. No modification fee shall be required for the General VPDES Permit for Discharges of Stormwater from Construction Activities for a state agency or federal entity that is administering a project in accordance with approved standards and specifications but shall apply to all other state or federal agency projects.

General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures)	\$20 <u>\$30</u>
General / Stormwater Management – Small Construction Activity/Land-Disturbing Activity in a Chesapeake Bay Preservation Area (not subject to General Permit coverage)/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than five acres where the locality is the VESMP authority)	\$20
General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than five acres where the department is the VSMP authority)	\$0

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General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one and less than five acres)	\$200 <u>\$320</u>	Municipal Stormwater / MS4 General Permit (Small)	\$3,000 <u>\$4,800</u>
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$250 <u>\$400</u>	Land-Disturbing Activity in a Chesapeake Bay Preservation Area (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than one acre)	\$50 <u>\$80</u>
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300 <u>\$480</u>	General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures)	\$50 <u>\$80</u>
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450 <u>\$720</u>	General / Stormwater Management – Small Construction Activity/Land-Disturbing Activity in a Chesapeake Bay Preservation Area (not subject to General Permit coverage)/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than five acres where the locality is the VESMP authority)	\$50 <u>\$80</u>
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$700 <u>\$1,120</u>	General / Stormwater Management – Small Construction Activity/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than five acres where the department is the VSMP authority)	\$0
Individual VPDES Permit for Discharges of Stormwater from Construction Activities	\$5,000 <u>\$8,000</u>	General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance equal to or greater than one acre and less than five acres)	\$400 <u>\$650</u>
		General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$500 <u>\$800</u>
		General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650 <u>\$1,050</u>
		General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900 <u>\$1450</u>

9VAC25-875-1420. Permit maintenance fees.

A. The following annual permit maintenance fees apply to each permit identified below, including expired permits that have been administratively continued. With respect to the General VPDES Permit for Discharges of Stormwater from Construction Activities, these fees shall apply until the permit coverage is terminated and shall only be effective when assessed by a VESMP authority [, ~~including or~~] the department [~~when acting in that capacity that has been approved by the department as the VSMP or VESMP authority~~]. No maintenance fee shall be required for the General VPDES Permit for Discharges of Stormwater from Construction Activities for a state agency or federal entity that is administering a project in accordance with approved standards and specifications but shall apply to all other state or federal agency projects. All regulated MS4s that are issued joint coverage under an individual permit or general permit registration shall each pay the appropriate fees set out in the following table:

Municipal Stormwater / MS4 Individual (Large and Medium)	\$8,800 <u>\$14,100</u>
Municipal Stormwater / MS4 Individual (Small)	\$6,000 <u>\$9,600</u>

General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater 100 acres)	\$1,400 \$2,250
Individual VPDES Permit for Discharges from Construction Activities	\$3,000 \$4,800

B. The amount of the annual permit maintenance fee due for a MS4 permit or permit for discharges of stormwater from construction activities for a specified year as required by subsection A of this section shall be calculated according to the formulas in 9VAC25-875-1375 B.

V.A.R. Doc. No. R25-8011; Filed December 23, 2025, 1:43 p.m.



TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF WORKFORCE DEVELOPMENT AND ADVANCEMENT

Final Regulation

REGISTRAR'S NOTICE: The Virginia Code Commission is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 C of the Code of Virginia, which allows that changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia), made pursuant to § 30-150 of the Code of Virginia shall be exempt.

Title of Regulation: **16VAC35-10. Public Participation Guidelines (adding 16VAC35-10-10 through 16VAC35-10-110).**

Statutory Authority: §§ 2.2-2037 and 30-150 of the Code of Virginia.

Effective Date: January 26, 2026.

Agency Contact: Eugene Maupai, Regulatory Coordinator, Department of Workforce Development and Advancement (Virginia Works), 2221 Edward Holland Drive, Suite 500, Richmond, VA 23220, telephone (804) 877-6557, or email eugene.maupai@virginiaworks.gov.

Background: Chapters 624 and 625 of the 2023 Acts of Assembly provide that the regulations of the Virginia Community College System, the Virginia Employment Commission, and the Department of Labor and Industry relating to any program, service, or function be transferred to the Department of Workforce Development and Advancement (department) established pursuant to § 2.2-2035 of the Code of Virginia. These regulations shall be administered by the department and shall remain in full force and effect until the department promulgates replacement regulations. Pursuant to § 30-150 of the Code of Virginia, the Virginia Code

Commission may renumber, rename, and rearrange any Virginia Administrative Code titles, sections or other divisions within the regulations that have been proposed, adopted, or become effective and make corresponding changes.

Summary:

In this action, pursuant to § 30-150, the Registrar of Regulations moves Public Participation Guidelines from the authority of the Apprenticeship Council (at 16VAC20-11) to the department (at 16VAC35-10). The amendments (i) update agency name and associated nomenclature, (ii) change the chapter and section numbers so that the regulation appears under the department in the Virginia Administrative Code, and (iii) update cross references.

Chapter 10

Public Participation Guidelines

Part I

Purpose and Definitions

16VAC20-11-10. 16VAC35-10-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Apprenticeship Council Department of Workforce Development and Advancement. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

16VAC20-11-20. 16VAC35-10-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Apprenticeship Council Department of Workforce Development and Advancement, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list

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maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"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, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended, and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

16VAC20-11-30. 16VAC35-10-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

16VAC20-11-40. 16VAC35-10-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 16VAC20-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropose, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

16VAC20-11-50. 16VAC35-10-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency; and (ii) be accompanied by and represented by counsel or other representative. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropose regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

16VAC20-11-60. 16VAC35-10-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

16VAC20-11-70. 16VAC35-10-70. Appointment of regulatory advisory panel.

- A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.
- B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.
- C. A RAP may be dissolved by the agency if:
 1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
 2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

16VAC20-11-80. 16VAC35-10-80. Appointment of negotiated rulemaking panel.

- A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.
- B. An NRP that has been appointed by the agency may be dissolved by the agency when:
 1. There is no longer controversy associated with the development of the regulation;
 2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
 3. The agency determines that resolution of a controversy is unlikely.

16VAC20-11-90. 16VAC35-10-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

16VAC20-11-100. 16VAC35-10-100. Public hearings on regulations.

- A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

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B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

16VAC20-11-110. 16VAC35-10-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

V.A.R. Doc. No. R26-8572; Filed January 6, 2026, 11:44 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Code Commission is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 C of the Code of Virginia, which allows that changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia), made pursuant to § 30-150 of the Code of Virginia shall be exempt.

Title of Regulation: **16VAC35-30. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia (adding 16VAC35-30-10 through 16VAC35-30-120).**

Statutory Authority: §§ 2.2-2037 and 30-150 of the Code of Virginia.

Effective Date: January 26, 2026.

Agency Contact: Eugene Maupai, Regulatory Coordinator, Department of Workforce Development and Advancement (Virginia Works), 2221 Edward Holland Drive, Suite 500, Richmond, VA 23220, telephone (804) 877-6557, or email eugene.maupai@virginiaworks.gov.

Background: Chapters 624 and 625 of the 2023 Acts of Assembly provide that the regulations of the Virginia Community College System, the Virginia Employment Commission, and the Department of Labor and Industry relating to any program, service, or function be transferred to the Department of Workforce Development and Advancement (department) established pursuant to § 2.2-2035 of the Code of Virginia. These regulations shall be administered by the department and shall remain in full force and effect until the department promulgates replacement regulations. Pursuant to § 30-150 of the Code of Virginia, the Virginia Code Commission may renumber, rename, and rearrange any Virginia Administrative Code titles, sections or other divisions within the regulations that have been proposed, adopted, or become effective and make corresponding changes.

Summary:

In this action, pursuant to § 30-150, the Registrar of Regulations moves Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia from the authority of the Apprenticeship Council (at 16VAC20-21) to the department (at 16VAC35-30). The amendments (i) update agency name and associated nomenclature, (ii) change the chapter and section numbers so that the regulation appears under the department in the Virginia Administrative Code, and (iii) update cross references.

Chapter 24 30

Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia

16VAC20-21-10. 16VAC35-30-10. Purpose.

This chapter establishes procedures and standards for the approval and registration of apprenticeship programs and agreements in accordance with Chapter 6 ~~20.2~~ (§ 40.1-117 ~~2.2-2035~~ et seq.) of Title 40.1 ~~2.2~~ of the Code of Virginia and includes the cancellation and deregistration of apprenticeship programs and apprenticeship agreements, the recognition of the Department of ~~Labor and Industry~~ Workforce Development and Advancement as the authorized agency for registering apprenticeship programs for certain federal purposes, and other matters relating thereto. It is intended to (i) ensure that all apprenticeship training programs registered with the Department of ~~Labor and Industry~~ Workforce Development and Advancement are of the highest possible quality in all aspects of on-the-job learning and related instruction, (ii) safeguard the welfare of apprentices, (iii) and provide meaningful employment and relevant training for all apprentices.

16VAC20-21-20, 16VAC35-30-20. Definitions.

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

"Administrator" means the Administrator, Office of Apprenticeship, United States Department of Labor.

"Apprentice" means a person as defined by § 40.1-120 2.2-2043 of the Code of Virginia. All registered individuals are considered apprentices by the department until such time as they have either satisfactorily completed the apprenticeship program or have been canceled by the sponsor from the apprenticeship program.

"Apprenticeship agreement" means a written agreement between an apprentice and a program sponsor that meets the criteria as detailed in § 40.1-121 2.2-2049 of the Code of Virginia and 16VAC20-21-50 16VAC35-30-50.

"Apprenticeship committee" or "committee" means those persons designated by the sponsor to administer the program. A committee may be either joint or nonjoint as follows:

1. A joint committee is composed of an equal number of representatives of the employer or employers and of the employees represented by a bona fide collective bargaining agent or agents.

2. A nonjoint committee, which may also be known as a unilateral or group nonjoint (which may include employees) committee, has employer representatives but does not have a bona fide collective bargaining agent as a participant.

"Apprenticeable occupation" means an occupation as defined by § 40.1-120 2.2-2043 of the Code of Virginia.

"Cancellation" means the termination of the registration or approval status of a program at the request of the sponsor or termination of an apprenticeship agreement at the request of the apprentice.

"Certificate" or "certification" means documentary evidence that the department has (i) established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program, (ii) determined that an apprentice has successfully met the requirements to receive an interim credential, or (iii) determined that an individual has successfully completed the apprenticeship.

"Certificate of registration" means the master agreement or other written indicia of an apprenticeship program registered by the department.

"CFR" means the Code of Federal Regulations.

"Commissioner" means the Commissioner of the Virginia Department of Labor and Industry Workforce Development and Advancement as defined by § 40.1-2 2.2-2036 of the Code of Virginia.

"Competency" means the attainment of manual, mechanical, or technical skills and knowledge, as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement.

"Completion rate" means the percentage of an apprenticeship cohort who received a certificate of apprenticeship completion within one year of the projected completion date. An apprentice cohort is the group of individual apprentices registered to a specific program during a one year time frame, except that a cohort does not include the apprentices whose apprenticeship agreement has been canceled during the probation period.

"Construction job site" means new or renovation with an approved building permit, plan of development, contract number, or contractual agreement.

"Coordinator of apprenticeship" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

"Council" means the Virginia Apprenticeship Council established pursuant to § 40.1-117 2.2-2044 of the Code of Virginia.

"Department" means the Virginia Department of Labor and Industry Workforce Development and Advancement, which shall be the registration agency for federal purposes responsible for (i) registering voluntary programs and apprentices in and for the Commonwealth, (ii) providing technical assistance to such programs and individuals, and (iii) conducting both reviews for compliance with Chapter 6 20.2 (§ 40.1-117 2.2-2035 et seq.) of Title 40 2.2 of the Code of Virginia and 29 CFR Parts 29 and 30, as well as quality assurance assessments.

"Electronic media" means media that utilize electronics or electromechanical energy for the end user (i.e., audience) to access the content, and includes but is not limited to electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media or interactive distance learning.

"Employer" means an employer as defined by § 40.1-120 2.2-2043 of the Code of Virginia.

"Federal purposes" includes (i) any federal contract, grant, agreement or arrangement dealing with apprenticeship and (ii) any federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference, or right pertaining to apprenticeship.

"Interim credential" means a credential issued by the department, upon request of the appropriate sponsor, as certification of the competency attainment by an apprentice.

"Journeyworker" means a worker who has attained a level of skill, abilities, and competencies recognized within an industry

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as having mastered the skills and competencies required for the occupation. Use of this term may also refer to a mentor, technician, specialist, or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training.

"Nonconstruction job site" means the physical area within the walls where services are offered. This is the location that is identified on the license issued by the licensing board or the political locality.

"Program" means a written plan for apprenticeship conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee, or an organization of employees that contains all terms and conditions for qualification, recruitment, selection, employment, and training of apprentices, as required under Chapter 6 20.2 (§ 40.1-117 2.2-2049 et seq.) of Title 40.1 2.2 of the Code of Virginia and 29 CFR Parts 29 and 30, including ~~but not limited to~~ the requirement for a written apprenticeship agreement.

"Provisional registration" means the one-year initial provisional approval of newly registered programs that meets the required standards for program registration after which program approval may be made permanent, continued as provisional, or rescinded following a review by the department.

"Quality assurance assessment" means a comprehensive review conducted by the department regarding all aspects of an apprenticeship program's performance, including ~~but not limited to~~ determining if (i) apprentices are receiving on-the-job learning in all phases of the apprenticeship occupation, scheduled wage increases consistent with the registered standards, and related instruction through appropriate curriculum and delivery systems and (ii) the department is receiving notification of all new registrations, cancellations, and completions as required in this chapter.

"Registration agency" means the department that is the recognized state apprenticeship agency that has responsibility for registering apprenticeship programs and apprentices, providing technical assistance, and conducting reviews for compliance with 29 CFR Parts 29 and 30 and quality assurance assessments.

"Registration of an apprenticeship agreement" means the acceptance and recording of an apprenticeship agreement by the department as evidence of the apprentice's participation in a particular registered program.

"Registration of an apprenticeship program" means the acceptance, recordation, or approval by the department as meeting the basic standards and requirements for approval of such program for federal purposes. Approval is evidenced by a certificate of registration or other written indicia.

"Related instruction" means an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical subjects related to the apprentice's occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the ~~Apprenticeship Council with the input of the department and the Virginia Community College System~~ Department of Workforce Development and Advancement.

"Sponsor" means any person, employer, association of employers, joint apprenticeship committee, organization of employees, or other organization under whose auspices a program is operated or is in the process of registration or approval.

"Supervision of apprentices" means direction and oversight of apprentices by any supervisor, foreman, journeyworker, or highly skilled mentor who may be counted as a direct supervisor of an apprentice as long as he is of the same trade or occupation as the apprentice.

"Technical assistance" means guidance provided by department staff in the development, revision, amendment, or processing of a potential or current program sponsor's standards of apprenticeship, apprenticeship agreements, or advice or consultation with a program sponsor to further compliance with this chapter or guidance from the USDOL Office of Apprenticeship to the department on how to remedy nonconformity with 29 CFR Part 29.

"Transfer" means a shift of registration of an apprenticeship agreement from one program to another or from one employer within a program to another employer within that same program, where there is agreement between the apprentice and the affected apprenticeship committees or program sponsors.

"Virginia State Plan for Equal Employment Opportunity in Apprenticeship" means the plan adopted by the Virginia Apprenticeship Council on September 28, 1971, for the purpose of providing equal employment opportunity in apprenticeship and that has been approved by the United States Department of Labor as meeting the requirements of 29 CFR Part 30.

"USDOL" means the United States Department of Labor.

"Work processes" means a defined industry-specific skill set that must be mastered by the apprentice in the work environment during the term of the employed apprenticeship.

16VAC20-21-30. 16VAC35-30-30. Eligibility for registration of programs and agreements.

A. Eligibility for registration of an apprenticeship program for various federal purposes is conditioned upon a program's conformity with the apprenticeship program standards of this chapter. For a program to be determined by the ~~United States~~ U.S. Secretary of Labor as being in conformity with the

published standards, the program must apply for registration with the department. The determination by the commissioner that the program meets the apprenticeship program standards is effectuated only through such registration.

B. Only an apprenticeship program or agreement that meets all of the following criteria is eligible for registration:

1. Conformity with the requirements of this chapter and the training is in an apprenticeable occupation having the characteristics in 16VAC20-21-40 16VAC35-30-40.

2. Conformity with the requirements of the council and the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

C. Except as provided under subsection D of this section, apprentices must be individually registered under a registered program. Such individual registration may be effected:

1. By filing copies of each individual apprenticeship agreement with the department; or

2. Subject to department approval, by filing a master copy of such agreement followed by a listing of the name and other required data of each individual when apprenticed.

D. The name of a person in probationary employment as an apprentice under an apprenticeship program registered by the department, if not individually registered under such program, must be submitted within 45 days of employment to the department for certification to establish the apprentice as eligible for such probationary employment.

E. The sponsor must notify the department within 45 days of (i) the successful completion of an apprenticeship program, (ii) transfers, (iii) suspensions, and (iv) cancellations of apprenticeship agreements and shall provide a statement of the reasons therefore.

F. Operating apprenticeship programs, when approved by the department, are accorded registration evidenced by a certificate of registration. Programs approved by the department and, as such, complying with the requirements of the council for such programs, must be accorded registration or approval evidenced by a similar certificate or other written indicia.

G. Applications for new programs that the department determines meet the required standards established by the council for program registration must be given provisional approval for a period of one year. The department shall review all new programs for quality and for conformity with the requirements of this chapter at the end of the first year after registration. At that time:

1. A program that conforms to the requirements of this chapter (i) may be made permanent or (ii) may continue to be provisionally approved through the first full training cycle.

2. A program not in operation or not conforming to this chapter during the provisional approval period must be recommended for deregistration procedures.

H. The department must review all programs for quality and for conformity with the requirements of the council and this chapter at the end of the first full training cycle.

1. A satisfactory review of a provisionally approved program will result in conversion of provisional approval to permanent registration. Subsequent reviews must be conducted no less frequently than every five years. Programs not in operation or not conforming to this chapter must be recommended for deregistration procedures.

2. Any sponsor proposals or applications for modification or change to registered programs must be submitted to the department. The department must make a determination on whether to approve such submissions within 90 days from the date of receipt. If approved, the modification or change will be recorded and acknowledged within 90 days of approval as an amendment to such program. If not approved, the sponsor must be notified of the disapproval and the reasons therefore and provided the appropriate technical assistance.

I. Under a program proposed for registration by an employer ~~or employers'~~ association where the standards, collective bargaining agreement, or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgment of union agreement or evidence of no objection by the union to the registration is required. Where no such participation is evidenced and practiced, the employer ~~or employers'~~ association must simultaneously furnish to an existing union that is the collective bargaining agent of the employees to be trained a copy of its application for registration and of the apprenticeship program. The department must provide for receipt of union comments, if any, within 45 days before final action on the application for registration or approval.

J. Where the employees to be trained have no collective bargaining agreement, an apprenticeship program may be proposed for registration by an employer, a group of employers, or an employer association.

16VAC20-21-40. 16VAC35-30-40. Criteria for apprenticeable occupations.

An apprenticeable occupation is one that is specified by industry and has all of the following characteristics:

1. It involves skills customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning.

2. It is clearly identified and commonly recognized throughout an industry.

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3. It involves the progressive attainment of manual, mechanical, or technical skills and knowledge that in the industry standard for the occupation would require the completion of at least 2,000 hours of on-the-job learning to attain.
4. It requires related instruction to supplement the on-the-job learning experience.

16VAC20-21-50. 16VAC35-30-50. Standards of apprenticeship programs.

A. To be eligible for approval and registration by the department, an apprenticeship program must have an organized written plan (i.e., specific program standards) embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation as defined in this chapter and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards in the written plan must contain provisions that address:

1. The employment and training of the apprentice in a skilled occupation.
2. The term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning (at least 2,000 hours) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach).
 - a. The time-based approach measures skill acquisition through the individual apprentice's completion of at least 2,000 hours of on-the-job learning as described in a work process schedule.
 - b. The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of registered apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies.
 - c. The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.
 - d. The determination of the appropriate approach for the program standards is made by the program sponsor, subject to approval by the department of the determination

as appropriate to the apprenticeable occupation for which the program standards are registered.

3. An outline of the work processes in which the apprentice will receive supervised work experience and training on the job and the allocation of the approximate amount of time to be spent in each major process.

4. Organized, related instruction in technical subjects related to the occupation. A minimum of 144 hours for each year of apprenticeship is recommended. This instruction in technical subjects may be accomplished through media such as classroom, occupational or industry courses, electronic media, or other instruction approved by the department. Every apprenticeship instructor must:

a. Meet the ~~Virginia Community College System department~~ requirements for an apprenticeship-related instruction instructor, or be a subject matter expert, who is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

b. Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.

5. A progressively increasing schedule of wages to be paid to the apprentice consistent with the skill acquired. The entry wage must not be less than the minimum wage prescribed by the Fair Labor Standards Act (29 USC § 206(a)(1)), where applicable, unless a higher wage is required by another federal or state statute, by regulation, or by a collective bargaining agreement.

6. Periodic review and evaluation of the apprentice's performance on the job and in related instruction, and the maintenance of appropriate progress records.

7. A numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, except where such ratios are expressly prohibited by the collective bargaining agreements. The ratio language must be specific and clearly described as to its application to the job site, workforce, department, or plant.

8. Provisions concerning the ratio of apprentices to journeyworkers.

a. The minimum numeric ratio of apprentices to journeyworkers shall be 1:1 except as noted in subdivision 9 of this subsection. As part of their apprenticeship standards, individual program sponsors shall propose a ratio of apprentices to journeyworkers consistent with (i) proper supervision training, safety, and continuity of employment; (ii) applicable provisions in collective bargaining agreements; and (iii) applicable requirements of recognized licensing boards or authorities.

b. The department will review and approve all ratio proposals based on the explanation and justification provided by each program sponsor. Consideration will be given, but not limited to, the following factors:

- (1) Evidence of ability to assure proper supervision, training, safety, and continuity of employment under the proposed ratio;
- (2) The specific nature of the industry and occupation involved;
- (3) Proposed hiring or upgrading of minorities, females, older workers, dislocated workers, ex-offenders, the handicapped, and veterans; or
- (4) Evidence of ability to train under the proposed ratio.

If a ratio proposal is disapproved by the department, the sponsor may appeal the decision in writing to the council. The decision of the council shall be final.

9. Provisions concerning Davis-Bacon job sites.

a. Apprenticeship ratio on Davis-Bacon job sites. Effective July 1, 1993, the minimum numeric ratio of apprentices to journeymen for individual program sponsors and for individual contractors signatory to joint and nonjoint apprenticeship programs performing work under the Davis-Bacon Act (40 USC § 3141 et seq.) and related federal prevailing wage laws shall be job site specific and shall be as follows:

- (1) One apprentice to the first journeyworker (1:1).
- (2) Two apprentices to the first two journeyworkers (2:2).
- (3) Two apprentices to the first three journeyworkers (2:3).
- (4) Two apprentices to the first four journeyworkers (2:4).
- (5) Two apprentices to the first five journeyworkers (2:5).
- (6) Three apprentices to the first six journeyworkers (3:6).
- (7) One additional apprentice for each two journeyworkers thereafter (3:7, 4:8, 5:10, 5:11, 6:12, etc.).

The ratio for service trucks on Davis-Bacon job sites shall be one apprentice to one journeyworker.

Bids submitted for Davis-Bacon work on or after July 1, 1993, must observe the minimum ratio requirements.

These ratio provisions shall apply until either the Congress of the United States or the USDOL mandates different or uniform ratios for Davis-Bacon work.

b. Other requirements related to Davis-Bacon job sites. Sponsors shall notify the department within 30 days of receipt of a citation alleging a violation of the Davis-Bacon Act affecting any apprentice. The notice must be in a form specified by the policies of the department. Failure to report citations shall be an omission for which the department may consider requiring a remedial action plan or deregistration of the sponsor's program.

The department may deregister sponsors who receive final orders of the USDOL or the courts confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

10. A probationary period reasonable in relation to the full apprenticeship term, with full credit given for such period toward completion of apprenticeship. The probationary period cannot exceed 25% of the length of the program or one year, whichever is shorter.
11. Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction.
12. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age not less than 16 years.
13. The placement of an apprentice under a written apprenticeship agreement that meets the requirements of applicable federal or state statutes or regulation of the department. The agreement must directly or by reference incorporate the standards of the program as part of the agreement.
14. The granting of advanced standing or credit for demonstrated competency, acquired experience, training, or skills for all applicants equally, with commensurate wages for any progression step so granted.
15. The transfer of an apprentice between apprenticeship programs and within an apprenticeship program, which must be based on agreement between the apprentice and the affected apprenticeship committees or program sponsors and must comply with all of the following requirements:
 - a. The transferring apprentice must be provided a transcript of related instruction and on-the-job learning by the committee or program sponsor.
 - b. Transfer must be to the same occupation.
 - c. A new apprenticeship agreement must be executed when the transfer occurs between program sponsors.
16. Assurance of qualified training personnel and adequate supervision on the job.
17. Recognition for successful completion of apprenticeship evidenced by an appropriate certificate issued by the department.
18. Program standards that utilize the competency-based or hybrid approach for progression through an apprenticeship and that choose to issue interim credentials, which must (i) clearly identify the interim credentials, (ii) demonstrate how these credentials link to the components of the apprenticeship, and (iii) establish the process for assessing an individual apprentice's demonstration of competency associated with the particular interim credential. Further, interim credentials must only be issued

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for recognized components of an apprenticeable occupation, thereby linking interim credentials specifically to the knowledge, skills, and abilities associated with those components of the apprenticeable occupation.

19. Identification of the department as the registering agency.

20. Provision for the registration, cancellation, and deregistration of the program, and for the prompt submission of any program standard modification or amendment to the department for approval.

21. Provision for the registration of apprenticeship agreements modifications and amendments; notice to the department of persons who have successfully completed apprenticeship programs; and notice of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons therefore.

22. The authority for the cancellation of an apprenticeship agreement during the probationary period by either party without stated cause. Cancellation during the probationary period will not have an adverse impact on the sponsor's completion rate.

23. Compliance with 29 CFR Part 30, including the equal opportunity pledge prescribed in 29 CFR 30(b); an affirmative action plan complying with 29 CFR 30.4; and a method for the selection of apprentices authorized by 29 CFR 30.5, or compliance with parallel requirements contained in a state plan for equal opportunity in apprenticeship adopted in conformity with 29 CFR Part 30 and approved by the department. The apprenticeship standards must also include a statement that the program will be conducted, operated, and administered in conformity with applicable provisions of 29 CFR Part 30, as amended, or, if applicable, an approved state plan for equal opportunity in apprenticeship.

24. Contact information, including name, address, telephone number, and email address if appropriate, for the appropriate individual with authority under the program to receive, process, and make disposition of complaints.

25. Recording and maintenance of all records concerning apprenticeship as may be required by the department or by law.

16VAC20-21-60. 16VAC35-30-60. Program performance standards.

A. Every registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time, which may not exceed one year:

1. Between the date when a program is registered and the date of registration of its first apprentice; or

2. Between the date that a program graduates an apprentice and the date of registration for the next apprentice in the program.

B. The department must evaluate performance of registered apprenticeship programs.

1. The tools and factors to be used must include, ~~but are not limited to:~~

- a. Quality assurance assessments.
- b. Virginia State Plan for Equal Employment Opportunity (EEO) in Apprenticeship Compliance Reviews.
- c. Completion rates.

2. Any additional tools and factors used by the department in evaluating program performance must adhere to the goals and policies of the department articulated in this chapter and in guidance issued by the USDOL, Office of Apprenticeship.

a. In order to evaluate completion rates, the department must review a program's completion rates in comparison to the national average for completion rates. Based on the review, the department must provide technical assistance to programs with completion rates lower than the national average.

b. Cancellation of apprenticeship agreements during the probationary period will not have an adverse impact on a sponsor's completion rate.

16VAC20-21-70. 16VAC35-30-70. Apprenticeship agreements.

The apprenticeship agreement must contain explicitly or by reference:

1. Names and signatures of the contracting parties (apprentice and the program sponsor or employer) and the signature of a parent or guardian if the apprentice is a minor.

2. The date of birth and, on a voluntary basis, social security number of the apprentice.

3. Contact information of the program sponsor and the department.

4. A statement of the occupation in which the apprentice is to be trained and the beginning date and term (duration) of apprenticeship.

5. A statement showing:

- a. The number of hours to be spent by the apprentice in work on the job in a time-based program; a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component; or the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of the hybrid program.

- b. The number of hours to be spent in related instruction in technical subjects related to the occupation, which is recommended to be not less than 144 hours per year.
- 6. A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.
- 7. A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated.
- 8. Statements providing:
 - a. For a specific period of probation, which cannot exceed 25% of the length of the program or one year, whichever is shorter, during which the apprenticeship agreement may be canceled by either party to the agreement upon written notice to the department, without adverse impact on the sponsor.
 - b. That, after the probationary period, the agreement may be:
 - (1) Canceled at the request of the apprentice; or
 - (2) Suspended or canceled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the department of the final action taken.
- 9. A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement.
- 10. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin, or sex.
- 11. Contact information (name, address, phone telephone, and email address if appropriate) of the appropriate authority designated under the program to receive, process, and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions.

16VAC20-21-80. 16VAC35-30-80. Procedure for deregistration of a registered program.

A. Deregistration of a program may be effected (i) upon the voluntary action of the sponsor by submitting a request to the department for cancellation of the registration in accordance with subsection B of this section or (ii) upon reasonable cause, by the department instituting formal deregistration proceedings in accordance with subsection C of this section.

B. Deregistration at the request of the sponsor. The department may cancel the registration of an apprenticeship program by written acknowledgment of such request stating the following:

- 1. The registration is canceled at the sponsor's request and the effective date thereof.
- 2. That, within 15 days of the date of the acknowledgment, the sponsor will notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration of the program removes the apprentice from coverage for federal purposes that require the commissioner's approval of an apprenticeship program; and that all apprentices are referred to the department for information about potential transfer to other registered apprenticeship programs.

C. Deregistration upon reasonable cause.

1. Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the program's registered provisions or the requirements of this chapter, including not but limited to (i) failure to provide on-the-job learning; (ii) failure to provide related instruction; (iii) failure to pay the apprentice a progressively increasing schedule of wages consistent with the apprentice's skills acquired; or (iv) persistent and significant failure to perform successfully. Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under 29 CFR Part 30. For purposes of this section, persistent and significant failure to perform successfully occurs when a program sponsor:

- a. Consistently fails to register at least one apprentice.
- b. Shows a pattern of poor quality assessment results over a period of several years.
- c. Demonstrates an ongoing pattern of very low completion rates over a period of several years.
- d. Shows no indication of improvement in the areas identified by the department during a review process as requiring corrective action.

2. Where it appears the program is not being operated in accordance with the registered standards or with requirements of this chapter the department must notify the program sponsor in writing.

3. The notice sent to the program sponsor's contact person must:

- a. Be sent by registered or certified mail with return receipt requested or by personal service.
- b. State the shortcoming and the remedy required.
- c. State that determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

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4. Upon request by the sponsor for good cause, the department may extend the 30-day term for an additional 30 days. During the period for corrective action, the department, within available resources, must assist the sponsor in every reasonable way to achieve conformity.

5. If the required correction is not effected within the allotted period for corrective action, the department must send a notice to the sponsor, by registered or certified mail with return receipt requested or by personal service, stating the following:

a. The notice is sent under this section.

b. Certain deficiencies were called to the sponsor's attention (enumerating them and the remedial measures requested, with the dates of such occasions and letters), and that the sponsor has failed or refused to effect correction.

c. Based upon the stated deficiencies and failure to remedy them, a determination by the department has been made that there is reasonable cause to deregister the program and the program may be deregistered unless, within 15 days of the receipt of the notice, the sponsor requests a hearing with the Office of Apprenticeship, USDOL.

d. If the sponsor does not request a hearing, the entire matter will be submitted to the Administrator, Office of Apprenticeship, USDOL, for a decision on the record with respect to deregistration.

6. If the sponsor does not request a hearing, the department will transmit to the administrator a report containing all pertinent facts and circumstances concerning the nonconformity, including the findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings, and conferences will include the time, date, place, and persons present. The administrator will make a final order on the basis of the record presented.

7. If the sponsor requests a hearing, the department will submit to the administrator a report containing all the data listed in this section, and the administrator will refer the matter to the Office of Administrative Law Judge of USDOL. An administrative law judge will convene a hearing in accordance with 29 CFR 29.10.

8. The sponsor must, within 15 days of the effective date of the orders of deregistration, notify all registered apprentices of the deregistration of the program; the effective date thereof; that such cancellation automatically deprives the apprentice of individual registration; that the deregistration removes the apprentices from coverage for federal purposes that requires the commissioner's approval of an apprenticeship program; and that all apprentices are referred to the department for information about potential transfer to other registered apprenticeship programs.

16VAC20-21-90. 16VAC35-30-90. Reinstatement of program registration.

Any apprenticeship program deregistered under ~~16VAC20-21-80~~ ~~16VC35-30-80~~ may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with this chapter. Such evidence must be presented to the department.

16VAC20-21-100. 16VAC35-30-100. Hearings for deregistration.

All hearings for deregistration will be held by USDOL in accordance with 29 CFR 29.10.

16VAC20-21-110. 16VAC35-30-110. Limitations.

Nothing in this chapter or in any apprenticeship agreement will operate to invalidate:

1. Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards.

2. Any special provision for veterans, minority persons, or women in the standards, the apprentice qualifications, the operation of the program, or the apprenticeship agreement, which is not otherwise prohibited by any federal or state statute, regulation, or executive order.

16VAC20-21-120. 16VAC35-30-120. Complaints.

A. This section is not applicable to any complaint concerning discrimination or other equal employment opportunity matters; all such complaints must be submitted, processed, and resolved in accordance with applicable provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

B. Except for matters described in subsection A of this section, any controversy, difference, or discrepancy arising under an apprenticeship agreement that cannot be adjusted, abated, or otherwise resolved locally by the parties and that is not covered by a collective bargaining agreement, may be submitted by an apprentice or the apprentice's authorized representative to the department for review. Matters covered by a collective bargaining agreement are not subject to such review.

C. The complaint must be in writing and signed by the complainant or authorized representative and must be submitted within 60 days of any final local decision. It must set forth the specific matter complained of, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint.

D. The department will render an opinion within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as may be found to be necessary and the record before it. During the 90-day period, the department will make reasonable efforts to effect a satisfactory resolution between the parties involved. If so resolved, the parties will be

notified that the case is closed. Where departmental efforts yield no resolution, an opinion is rendered and disseminated to all interested parties.

E. A party dissatisfied with the opinion of the department may file a petition for review with the Office of Apprenticeship, USDOL, specifically identifying the controversy, difference, discrepancy, or decision that is at issue. A copy of the petition for review must be concurrently sent to the department.

F. Nothing in this section precludes an apprentice from pursuing any other remedy authorized under another federal, state, or local law.

V.A.R. Doc. No. R26-8573; Filed January 6, 2026, 11:37 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Proposed Regulation

Title of Regulation: 18VAC5-22. Board of Accountancy Regulations (amending 18VAC5-22-20, 18VAC5-22-50, 18VAC5-22-80, 18VAC5-22-130, 18VAC5-22-150, 18VAC5-22-170, 18VAC5-22-180; repealing 18VAC5-22-30).

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: March 27, 2026.

Agency Contact: Alessandra Gabriel, Information and Policy Advisor, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 367-0728, fax (804) 527-4409, TDD (804) 367-9753, or email alessandra.gabriel@boa.virginia.gov.

Basis: Section 54.1-4402 of the Code of Virginia authorizes the Board of Accountancy to establish rules and procedures for the implementation of the provisions of Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-4403 of the Code of Virginia authorizes the board to promulgate regulations necessary to ensure continued competency, prevent deceptive or misleading practices by licensees, and effectively administer the regulatory system.

Purpose: Amendments related to firms are necessary to improve regulatory and ethical oversight of certified public accountant (CPA) firms for the sake of public protection and safety. This is especially important given the increasing risk of non-CPA influence and control within CPA firms through alternative practice structures and private equity investment.

Some technical amendments in this regulatory change will be made to enhance public clarity and understanding.

Substance: The proposed amendments (i) eliminate the CPA re-exam fee; (ii) clarify the definition of principal place of business; (iii) remove restrictions for re-examination requirements and clarify CPA license eligibility requirements; (iv) clarify statutes related to CPA firm ownership requirements; (v) clarify statutes related to firm peer review enrollment; (vi) require firms to report changes to their ownership or organizational structure to the board; (vii) repeal 18VAC5-22-30, which is redundant; and (viii) make technical changes.

Issues: The primary advantage to the agency and the public is that this action will allow continued oversight and compliance of CPAs and CPA firms. There are no known disadvantages for the public, the agency, or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The Board of Accountancy (board) proposes to (i) remove a fee for processing additional applications to take one or more sections of the CPA (Certified Public Accountant) examination, (ii) update and clarify the factors used to determine whether an individual licensee principal place of business is within the Commonwealth or not, (iii) remove unnecessary restrictions regarding how long individuals must wait before retaking a section of the CPA examination, and (iv) update the requirements for firm ownership.

Background. Executive Directive 1 (2022) directs executive branch entities under the authority of the Governor to initiate regulatory processes to reduce by at least 25% the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.² The board reports that the fees in this regulation have not been changed since 2013 and that the regulatory requirements have not been significantly revised since 2018. Thus, the proposed changes are intended to update and clarify certain requirements, while removing unnecessary fees and outdated or overly burdensome requirements, as required by Executive Directive 1 (2022).

18VAC5-22-20 is amended to remove a \$20 fee for processing additional applications to take one or more sections of the CPA examination. The board specified that this change is intended to reduce the burden on applicants who are still in the process of meeting licensure requirements, because the cost of enrolling to take the exam has increased significantly since these fees were set. It should also be noted that the initial application fee to apply to take one or more sections of the CPA exam (\$120), the initial individual license application fee (\$75), and the initial license application fee for firms (\$100) would remain the same.

18VAC5-22-50 is amended to specify how such determinations are made. The current text requires the person or firm to use

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reasonable judgment, which was deemed overly subjective and difficult to enforce. Under the proposed language, the principal place of business for a CPA firm is deemed to be in Virginia if the firm has one or more offices in Virginia. For individual CPAs, the proposed language seeks to align with the Internal Revenue Service (IRS) distinctions between employment and contracting. That is, the principal place of business for CPAs who are (i) owners, partners, or employees of a firm that is located in Virginia, or (ii) are assigned to a firm office that is located in Virginia, is deemed to be in Virginia. (The CPAs need not be physically located in Virginia.) On the other hand, independent contractors who are physically located in Virginia would be considered to have their principal place of business in Virginia, even if the firms that contract them are located in other states.

18VAC5-22-80 is amended to remove a requirement that a person who fails a section of the CPA examination may not retake that section until the next quarter of the calendar year unless otherwise prescribed by the board. This requirement was considered unnecessary and overly burdensome, and the proposed change is intended to reduce the time taken for applicants to retake sections of the exam.

18VAC5-22-130 is retitled "Firm ownership" and would be amended to reiterate and clarify the requirements of Code of Virginia § 54.1-4412.1 D of the Code of Virginia.³ Specifically, the board seeks to add language clarifying that a CPA firm licensed in Virginia must be at least 51% owned by persons who hold an active license or trustees of an eligible employee stock ownership plan. The board would also require firms to designate an active individual Virginia CPA license holder as the principal licensee who will be responsible for the firm.

18VAC5-22-170 is amended to require licensees to notify the board of any change that affects the ownership, operating status, or structure of a Virginia CPA firm within 30 calendar days.

Lastly, the board seeks to make clarifying changes and to remove language that either re-states Virginia statute or has become obsolete.

Estimated Benefits and Costs. Individuals applying to take the CPA exam would benefit from (i) not having to pay additional fees to retake sections of the exam, and (ii) not having to wait until the next quarter to retake a section of the exam. The board reports that it receives approximately 4,415 re-exam applications per year; thus, eliminating the \$20 fee for this application would result in approximately \$88,300 in savings for prospective CPAs each year. In addition, obtaining a CPA license is likely associated with increased job opportunities at CPA firms, eligibility for promotions, higher salaries, and the option to be self-employed or a proprietor of a CPA firm. Thus, aspiring CPAs who take less time to pass the exams would benefit from having more time to accrue the financial and non-financial benefits of being licensed in the profession. Taken together, these changes would marginally reduce barriers to entry into the profession. Individuals and firms licensed in Virginia or seeking to relocate to or operate in Virginia would benefit from greater clarity in 18VAC5-22-50, with regard to determining the principal place of business. Some individuals may find that they either need to obtain a Virginia license or no longer need to maintain a Virginia license. However, to the extent that the proposed changes implement a policy that aligns with IRS

designations and may already be followed in practice, few such changes are expected. The changes to 18VAC5-22-130 regarding ownership are intended to protect small and/or sole-proprietor accounting firms in Virginia from efforts to acquire and consolidate these businesses by larger financial companies. This in turn would benefit the various small businesses throughout the Commonwealth that rely on small accounting firms or individual contractors/sole proprietors to pay their taxes. Some CPA firms may incur a cost to reorganize and designate an active individual Virginia CPA license holder as the principal licensee who will be responsible for the firm, which would be a new requirement.

Businesses and Other Entities Affected. The board reports that the proposed changes are expected to directly benefit the applicants who currently submit roughly 4,415 requests per year to take additional sections of the CPA exam. Current and future individual CPAs and CPA firms would benefit from having clear and accurate regulations. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ 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.⁵ Since the proposed changes does not increase net costs or reduce net benefits, an adverse impact is not indicated.

Small Businesses⁶ Affected.⁷ The board reports that the vast majority of CPA firms licensed in Virginia would meet the statutory definition of a small business. The proposed amendments would not adversely affect small CPA firms.

Localities⁸ Affected.⁹ The proposed amendments do not disproportionately affect particular localities or affect costs for local governments.

Projected Impact on Employment. Although, as described previously, the proposed amendments would reduce the barriers to entry for CPAs, the proposed amendments are unlikely to have a significant impact on total employment.

Effects on the Use and Value of Private Property. The proposed fees are not expected to affect the value of CPA firms. Real estate development costs would not be affected.

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

² See <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>.

³ See <https://law.lis.virginia.gov/vacode/title54.1/chapter44/section54.1-4412.1/>.

⁴ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities

should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ 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.

⁶ 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."

⁷ 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.

⁸ "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.

⁹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board of Accountancy has reviewed the economic impact analysis prepared by the Department of Planning and Budget and concurs with the analysis.

Summary:

The proposed amendments (i) eliminate the certified public accountant (CPA) re-exam fee; (ii) clarify the definition of principal place of business; (iii) remove restrictions for re-examination requirements and clarify CPA license eligibility requirements; (iv) clarify statutes related to CPA firm ownership requirements; (v) clarify statutes related to firm peer review enrollment; (vi) require firms to report changes in ownership or organizational structure to the Board of Accountancy; (vii) repeal 18VAC5-22-30, which is redundant; and (viii) make technical changes.

18VAC5-22-20. Fees.

A. The board shall charge the following fees for services it provides:

Processing an initial application to take one or more sections of the CPA examination \$120

~~Processing additional applications to take one or more sections of the CPA examination~~ \$20

Processing an application for issuance of a Virginia license to a person \$75

Processing an application for issuance of a Virginia license to a firm	\$100
Processing an application for the timely renewal of a person's Virginia license except as provided in subsection B of 18VAC5-22-180	\$60
Processing an application for the timely renewal of a firm's Virginia license except as provided in subsection B of 18VAC5-22-180	\$75
Additional fee for processing an application for the renewal of a person's Virginia license that is not timely	\$100
Additional fee for processing an application for the renewal of a firm's Virginia license that is not timely	\$100
Processing an application for reinstatement of a person's Virginia license	\$350
Processing an application for reinstatement of a firm's Virginia license	\$500
Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia	\$350
Processing an application for lifting the suspension of the privilege of providing attest services, compilation services, or financial statement preparation services for persons or entities located in Virginia	\$500
Providing or obtaining information about a person's grades on sections of the CPA examination	\$25
Processing requests for verification that a person or firm holds a Virginia license:	
1. Online request	\$25
2. Manual request	\$50
Providing an additional CPA wall certificate	\$25
Additional fee for not responding within 30 calendar days to any request for information by the board under subsection A of 18VAC5-22-170	\$100
Additional fee for not using the online payment option for any service provided by the board	\$25
B. All fees for services the board provides are due when the service is requested and are nonrefundable.	
C. Any original application for a CPA license in Virginia will expire six years from the original application date, and a new application with the corresponding fees and requirements will need to be submitted.	

Regulations

18VAC5-22-30. Determining whether persons or entities to whom communications are made, or for whom services are provided, are located in Virginia. (Repealed.)

For the purpose of determining whether a person who holds a Virginia license is providing services to the public or to or on behalf of an employer, those terms are to be defined in accordance with § 54.1-4400 of the Code of Virginia.

18VAC5-22-50. Determining whether the principal place of business of a person or of a firm is in Virginia.

Complying To comply with subdivision A 1 of § 54.1-4409.1 A 1, subsection B of § 54.1-4411 B, or subsection B of § 54.1-4412.1 B of the Code of Virginia requires the, a person or firm to use reasonable judgment in determining whether must hold a Virginia license if the person or firm practices public accounting and the principal place of business in which where the person or firm provides those services is in Virginia. The principal place of business shall generally be determined as follows:

1. The person provides services to the public; or If a firm has an office in Virginia, its principal place of business is deemed to be Virginia. In the event a firm has multiple offices in Virginia operating under the same entity, all locations can be covered under a single firm license.
2. The firm provides attest services, compilation services, or financial statement preparation services For individuals, the principal place of business is deemed to be Virginia if the individual is:
 - a. An owner, partner, or employee of a firm that practices public accounting in Virginia and is assigned to a firm's office located in Virginia; or
 - b. An independent contractor who practices public accounting in Virginia and maintains an office location in Virginia where the individual performs services.

The determination shall be reasonable considering the facts and circumstances and can be based on quantitative or qualitative assessments. The determination shall be reconsidered for changes in facts and circumstances that are not temporary.

18VAC5-22-80. Examination.

A. In order to comply with subdivision A 1 b of § 54.1-4409.2 A 1 b of the Code of Virginia:

1. Each section of the CPA examination must be passed by attaining a uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board.
2. Persons may take sections of the CPA examination in any order. A person who fails a section of the CPA examination may retake that section after the failing grade has been released, unless otherwise prescribed by the board.

a. Subject to subdivision 2 b of this subsection, a person who fails a section of the CPA examination may not retake that section until the next quarter of the calendar year unless otherwise prescribed by the board.

b. The board may decide to eliminate the current restriction outlined in subdivision 2 a of this subsection and allow a person to retake sections of the CPA examination as soon as the person's grade for any previous attempt of that same section has been released.

3. When a person first passes a section of the CPA examination, the person has 30 months to pass the remaining sections. If the remaining sections are not passed within the 30-month period, the person loses credit for the first section passed, and a new 30-month period starts with the next section passed. Depending on the facts and circumstances, the board may grant additional time to pass the remaining sections provided that the waiver or deferral is in the public interest.

B. Failure to comply with the policies established by the board for conduct at the CPA examination may result in the loss of eligibility to take the CPA examination or credit for sections of the CPA examination passed. Cheating by a person in connection with the CPA examination shall invalidate any grade earned on any section of the CPA examination and may warrant expulsion from the CPA examination site and disqualification from taking the CPA examination for a specified period of time as determined by the board.

C. The board may postpone scheduled CPA examinations, the release of grades, or the issuance of licenses suspend or revoke the privilege of CPA licensure in Virginia under the following circumstances:

1. A breach of CPA examination security;
2. Unauthorized acquisition or disclosure of the contents of a CPA examination;
3. Suspected or actual cheating, negligence, errors, omissions, or irregularities in conducting a completing the CPA examination or any requirements of licensure; or
4. Any other reasonable circumstances.

D. Prior to being considered for a Virginia license, a person shall pass an ethics examination approved by the board.

18VAC5-22-130. Owners of firms who are not licensees Firm ownership.

A. A firm licensed in Virginia must (i) be at least 51% owned by persons who hold an active license or trustees of an eligible employee stock ownership plan, as defined in § 13.1-543 of the Code of Virginia, and (ii) designate an active individual Virginia license holder as the principal licensee who will be responsible for the firm.

B. To comply with subdivision D 2 of § 54.1-4412.1 D 2 of the Code of Virginia, owners of a firm who are not licensees

must be persons who, based on the facts and circumstances, participate in the firm's activities on a regular, continuous, and substantial basis.

18VAC5-22-150. Monitoring program and peer review.

In order to comply with ~~subdivision D 6 of § 54.1-4412.1 D 6 of the Code of Virginia, a every Virginia licensed firm that provides services within the scope of the practice-monitoring program of the American Institute of Certified Public Accountants or its successor shall be enrolled and comply with all components of the monitoring program in which it is enrolled, except that, depending Based on a firm's risk profile, the board may require a firm to enroll in a specific practice-monitoring program. Depending~~ on the facts and circumstances, the board may waive the requirement for a peer review or grant additional time for complying with the requirement.

18VAC5-22-170. Communication with the board.

A. Pursuant to § 54.1-4425 of the Code of Virginia, each licensee or applicant shall respond within 30 calendar days to any board request for information regarding compliance with any statutes or regulations pertaining to the board or any of the programs that may be in another title of the Code of Virginia for which the board has regulatory responsibility. When the requested response is not produced by the licensee or applicant within 30 calendar days, this nonproduction shall be deemed a violation of this rule, unless otherwise determined by the board.

B. Each holder of a Virginia license shall notify the board in writing within 30 calendar days of:

1. Any change in the holder's legal name or in the postal and electronic addresses where the person or firm may be reached;
2. Any administrative disciplinary action that the holder is the subject of or party to before any court, agency of the state or federal government, branch of the armed forces of the United States of America, or before the American Institute of Certified Public Accountants, the Virginia Society of Certified Public Accountants, or their successors;
3. Any conviction concerning a felony or misdemeanor, regardless of whether sentence is imposed, suspended, or executed;
4. Any guilty plea or plea of nolo contendere;
5. Any final judgment rendered against the holder in a civil court of law; or
6. Any receipt of a peer review report or a PCAOB firm inspection report containing criticisms of or identifying potential defects in the firm's quality control systems; or
7. Any change that affects the ownership, operating status, or structure of a Virginia CPA firm.

C. Upon the renewal, reinstatement of, or the application for a Virginia license, each person or entity shall notify the board in writing if any of the sanctions in subsection B of this section have occurred.

18VAC5-22-180. Issuance, renewal, and reinstatement of Licenses.

A. For Virginia licenses expiring on June 30, 2019, or later, the The holder of a Virginia license shall annually renew his license on or before June 30 of each calendar year by submitting a completed license renewal application and paying to the board a renewal fee as prescribed in 18VAC5-22-20.

B. If a person or entity applies for an initial license or reinstatement on or after March 1 of a calendar year, the license will not expire until June 30 of the following calendar year.

C. The board shall transmit license renewal notices electronically unless a person or firm is unable to communicate electronically. The responsibility license holder is responsible for renewing a the Virginia license is on its holder, and that responsibility is not affected by whether the holder receives a license renewal notice.

V.A.R. Doc. No. R25-8223; Filed December 24, 2025, 10:13 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 Pharmacy Permit \(rev. 1/2026\)](#)

[Change of PIC Application \(eff. 1/2026\)](#)

[Application for a Nonresident Pharmacy Registration \(rev. 1/2024\)](#)

[Application for a Nonresident Outsourcing Facility Registration \(rev. 10/2020\)](#)

[Application for an Outsourcing Facility Permit \(rev. 10/2020\)](#)

Regulations

[Application for a Medical Equipment Supplier Permit \(rev. 10/2020\)](#)

[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 \(rev. 9/2025\)](#)

[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. R26-8566; Filed December 29, 2025, 2:35 p.m.

BOARD OF COUNSELING

Notice of Extension of Emergency Regulation

Title of Regulation: **18VAC115-20. Regulations Governing the Practice of Professional Counseling (amending 18VAC115-20-10, 18VAC115-20-20, 18VAC115-20-100, 18VAC115-20-130, 18VAC115-20-140, 18VAC115-20-150; adding 18VAC115-20-41).**

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

The Governor has approved the request of the Board of Counseling to extend the expiration date of the emergency regulation for 18VAC115-20 for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation is continued in effect through September 7, 2026. This extension is required to avoid a disruption in the ability of the board to accept compact privileges for counselors to practice in Virginia. The board is currently waiting for the Office of the Attorney General to approve the proposed regulation. The emergency regulation was published in [41:4 V.A.R. 589-594](#) October 7, 2024.

Effective Date Extended Through: September 7, 2026.

Agency Contact: Matt Novak, Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 914-0907, or email matthew.novak@dhp.virginia.gov.

VA.R. Doc. No. R25-7562; Filed December 23, 2025, 11:35 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Proposed Regulation

Title of Regulation: **22VAC40-151. Standards for Licensed Children's Residential Facilities (amending 22VAC40-151-10, 22VAC40-151-30, 22VAC40-151-50, 22VAC40-151-70, 22VAC40-151-120, 22VAC40-151-180, 22VAC40-151-210, 22VAC40-151-240, 22VAC40-151-250, 22VAC40-151-270, 22VAC40-151-280, 22VAC40-151-290, 22VAC40-151-310, 22VAC40-151-320, 22VAC40-151-350, 22VAC40-151-360, 22VAC40-151-420, 22VAC40-151-430, 22VAC40-151-450, 22VAC40-151-530, 22VAC40-151-540, 22VAC40-151-570, 22VAC40-151-620, 22VAC40-151-670, 22VAC40-151-680, 22VAC40-151-700, 22VAC40-151-710, 22VAC40-151-720, 22VAC40-151-740 through 22VAC40-151-770, 22VAC40-151-790, 22VAC40-151-800, 22VAC40-151-820 through 22VAC40-151-880, 22VAC40-151-900, 22VAC40-151-950 through 22VAC40-151-990, 22VAC40-151-1020; adding 22VAC40-151-1030, 22VAC40-151-1040).**

Statutory Authority: §§ 63.2-217 and 63.2-1737 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: March 27, 2026.

Agency Contact: Alisa Foley, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7138, or email a.foley@dss.virginia.gov.

Basis: Sections 63.2-217 and 63.2-1734 of the Code of Virginia require the State Board of Social Services to adopt regulations and requirements for licensed children's residential facilities (CRFs), including regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

Purpose: This action protects the health, safety, and welfare of the children and families involved with licensed CRFs by incorporating new standards that reflect federal and state health and safety requirements.

Substance: The proposed amendments (i) establish standards and training for normalcy and reasonable and prudent parenting for children; (ii) add training requirements that cover topics such as shaken baby syndrome; (iii) add a requirement to review and update behavior support plans; (iv) add a requirement to document an inventory of a resident's clothing and personal belongings at the time of admission and discharge; (v) clarify requirements about fire inspections; (vi) update and clarify responsibilities to ensure educational needs of foster care children are met; (vii) clarify the terms "child" and "resident"; (viii) add qualified residential treatment

program requirements; and (ix) add, revise, and delete definitions, language, and technical edits necessary for clarification of existing requirements.

Issues: The primary advantage of this action to the public and the Commonwealth is the improved safety and wellbeing of children who reside in a children's residential facility by ensuring consistency with state and federal law. There are no disadvantages to the public, the agency, or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The State Board of Social Services (board) proposes to amend the standards for licensed children residential facilities (CRFs) to align with the requirements of the federal Family First Prevention Services Act (FFPSA) of 2018, the federal Preventing Sex Trafficking and Strengthening Families Act of 2014, and Chapter 551 of the 2010 Acts of Assembly.

Background. CRFs licensed by the Department of Social Services (DSS) accept children who are separated from their parents or guardians in order to provide full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to person between 18 to 21 years of age who are in the process of transitioning out of foster care. Children are temporarily placed in a CRF to address the child's needs, typically for less than a year. The Board seeks to make a number of changes to 22VAC40-151 Standards for Licensed Children's Residential Facilities that would conform the regulation to federal and state law and update the language to remove unnecessary definitions and clarify current requirements. Specifically, the proposed amendments would align the regulation with the requirements of the FFPSA, the Preventing Sex Trafficking and Strengthening Families Act, and changes to Virginia statute enacted by the 2010 General Assembly, and make additional changes that are intended to ensure the well-being of children and youth residing in a CRF. The FFPSA restructured federal spending on services for families and youth so as to prioritize keeping children with their families over placing them in foster care.² The law authorized new optional Title IV-E funding for time-limited mental health services, substance use treatment, and parenting skill-based programs.³ It also changed the role of community service providers, how courts make decisions for families, and the types of placements that can be made.⁴ Accordingly, the most substantive changes in this action would be to add two new sections to the chapter, 22VAC40-151-1030 and 22VAC40-151-1040. The proposed new section, 22VAC40-151-1030 would require qualified residential treatment programs (QRTPs) to have a trauma-informed model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and be able to implement the treatment identified for the child. In addition to the existing staffing requirements for children's residential facilities, QRTPs are also required to have registered or licensed nursing staff and other licensed clinical staff

who (i) provide care on-site according to the treatment model, and (ii) are available 24 hours a day, seven days a week. The text specifies that QRTPs are not required to acquire nursing or other clinical staff solely through a direct employer-employee relationship. This means that the additional staffing requirements could be sub-contracted through nursing agencies or met through other contractual agreements. To further the goals of the FFPSA, QRTPs must facilitate and document outreach to family members (known biological family, including siblings, and fictive kin⁵) and the ways in which family members are integrated into the treatment process for the child. QRTPs must also provide or ensure discharge planning and family-based post-discharge support for at least six months following discharge. Finally, QRTPs must be licensed in accordance with and accredited by an independent, nonprofit, accrediting organization approved by the United States Secretary of Health and Human Service. The proposed new section, 22VAC40-151-1040, contains additional requirements that would apply for foster children. For these children, QRTPs must coordinate with the child's placing agency, legal guardian, biological family members, relative and fictive kin, and, as appropriate, other professionals who have served as a resource for the child. QRTPs are also required to maintain all documents pertaining to the child's need for placement in the child's record including the initial assessment and any written documentation of the approval or disapproval of the placement by a court or administrative body. The Preventing Sex Trafficking and Strengthening Families Act of 2014 mandated the addition of the reasonable and prudent parent standard defined in 42 USC § 675(10)(A) and policies and procedures to support normalcy for children in foster care, including children and youth in foster care residing in a CRF.⁶ Chapter 631 of the 2016 Acts of Assembly amended § 63.2-904 of the Code of Virginia to conform statute to these federal requirements.⁷ To align with federal requirements and state statute, the board proposes to add definitions of reasonable and prudent parental standard, normalcy, and establish standards and training on these topics for CRF staff. Lastly, Chapter 551 of the 2010 Acts of Assembly required DSS to provide information about shaken baby syndrome to child welfare programs, foster and adoptive parents, and staff of child day programs and CRFs. The proposed changes would add shaken baby syndrome under training requirements for CRF staff, conforming the regulation to requirements currently in § 63.2-1737 of the Code of Virginia.⁸ Other proposed changes include adding a requirement to review and update behavior support plans, and a requirement to document an inventory of resident's clothing and personal belongings at the time of admission and discharge. The proposed changes would also clarify that cardio-pulmonary resuscitation (CPR) training include an in-person competency demonstration, clarify requirements about fire inspections, update and clarify requirements regarding the educational needs of foster care children at CRFs, and clarify that the term child applies to any person younger than 18 years of age and that the term resident applies to any child or young adult admitted to a CRF.⁹

Estimated Benefits and Costs. CRFs licensed by DSS accept children who are separated from their parents or guardians for full-time care, or for the purpose of providing independent living services to person between 18 to 21 years of age who are in the process of transitioning out of foster care. DSS reports that these

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facilities serve children whose mental health and behavioral needs are less acute and severe as compared to facilities licensed by the Department of Behavioral Health and Developmental Services (DBHDS). Children are placed in a CRF temporarily to address specific needs; DSS reports that the typical length of stay is less than a year. Federal and state law requires that children enter into permanency either by returning to family or relatives or through adoption when the child has been in care for 15 months. Before FFPSA was enacted, all CRFs were able to receive children who were eligible for Title IV-E funding. However, once FFPSA was enacted, these facilities became ineligible for Title IV-E funds because they did not meet the new standards.¹¹ Establishing the QRTP license with the FFPSA standards allows CRFs to become QRTPs and thus maintain their eligibility for Title IV-E funding. According to DSS, the types of programs that should be QRTPs are, non-family based residential programs who care for children in foster care who are eligible for IV-E funding. Any type of (non-family based residential) program licensed by DSS, DBHDS or DJJ (Department of Juvenile Justice), regardless of whether it is or is not a Medicaid provider, can apply to be a QRTP.¹² DSS currently has 16 licensed CRFs, two of which have already obtained QRTP designation. DSS reports that at the end of fiscal year 2022 there were 15 QRTP placements in VDSS CRFs.¹³ The state benefits from the availability of licensed QRTP facilities because their presence allows for cost-sharing with the federal government via Title IV-E. Further, to the extent that QRTPs are able to facilitate the level of family integration that the FFPSA calls for, the proposed changes would also benefit children receiving residential treatment by providing them with a higher standard of care and mitigating the trauma of family separation. However, in order to provide the higher standard of care, CRFs must incur additional costs to obtain and maintain their QRTP license. These include direct costs in terms of staffing and accreditation requirements and indirect costs arising from the effort required to develop a trauma-informed model, maintain relationships with families, coordinate care with various parties, provide discharge planning and family-based aftercare for six months, and maintain additional paperwork, all of which require staff time.¹⁴ Neither DSS nor DBHDS or other state agencies have any discretion in the QRTP licensing standards since they stem from the FFPSA. Due to the costs involved, some CRFs may elect not to become licensed as QRTPs. However, this impact would be by design, the FFPSA intends for fewer IV-E eligible children to be placed in institutional settings, and for such placements to be shorter in length, as family-based settings are prioritized and better supported through other interventions. DSS does not collect information on whether CRFs are already accredited, and it is uncertain whether other CRFs would pursue QRTP designation. The other proposed changes would apply to all 16 currently licensed CRFs as well as facilities that seek licensure from DSS in the future. These include initial and annual training requirements for staff regarding the reasonable and prudent parent standard and shaken baby syndrome, both of which are required by federal or state law, as described above. The only new requirements that would apply to all CRFs are as follows: (i) that resident personal belongings be documented at admissions and discharge, and that such documentation be provided to the legal guardian or legally authorized representative, (ii) that medical procedures or

treatments ordered by a physician or other prescriber be provided according to instructions and documented in the resident's health record, (iii) that all medication be locked and properly labeled, except emergency medication as provided by physician order, provided the facility has a department approved plan to ensure resident safety, and (iv) that the gender of witnesses to pat downs be of the same gender as the resident being searched.

Businesses and Other Entities Affected. DSS reports that there are 16 licensed CRFs, all privately owned and operated, that would be affected by some of the proposed changes regarding training and documentation requirements. In addition, the two CRFs currently licensed as QRTPs as well as any CRFs that choose to become QRTPs would have to incur additional costs to obtain accreditation and meet other requirements of the QRTP designation. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁵ 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.⁵ The proposed amendments would create some new costs for all CRFs, even if the bulk of those costs arise from conforming to federal and state law and have already been incurred, to some extent, to comply with those laws. The new requirements in the proposed amendments could be absorbed by existing staff without imposing a significant burden on staff time. Thus, compliance costs associated with these requirements are likely to be minimal. However, an adverse impact is indicated since these requirements are new and result in a nominal increase in net costs for CRFs.

Small Businesses¹⁶ Affected. ¹⁷ **Types and Estimated Number of Small Businesses Affected:** DSS reports that all 16 CRFs are small businesses. Thus, the proposed amendments appear to adversely affect small businesses. **Costs and Other Effects:** The proposed amendments include additional training and documentation requirements for CRF staff regarding shaken baby syndrome and the reasonable and prudent parent standard. Other requirements listed above are likely to have modest compliance costs in terms of paperwork and staff time. **Alternative Method that Minimizes Adverse Impact:** These training standards are based on the federal and state law. Thus there is no appropriate alternative.

Localities¹⁸ Affected.¹⁹ The proposed amendments do not disproportionately affect particular localities and do not introduce costs for local departments of social services or for local governments. Consequently, an adverse economic impact²⁰ is not indicated for any localities.

Projected Impact on Employment. The proposed amendments could increase the employment of registered or licensed nursing staff or licensed clinical staff, to the extent that CRFs become QRTPs.

Effects on the Use and Value of Private Property. The proposed amendments raise costs for CRFs, which would reduce their value. However, these costs are expected to be modest and likely to be recouped through the rate-setting process. Some facilities will incur costs to be licensed as QRTPs, but they would benefit by being eligible to receive Title IV-E covered placements. The proposed amendments do not affect real estate development costs.

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

² See <https://familyfirstact.org/about-law>.

³ See <https://www.acf.hhs.gov/cb/title-iv-e-prevention-program>.

⁴ See <https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/family-first/>.

⁵ Fictive kin both here and in the regulation means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family. See <https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-228/>.

⁶ See <https://www.congress.gov/bill/113th-congress/house-bill/4980> for a summary of the Act. Reasonable and prudent parent standard is defined as the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. (<https://www.law.cornell.edu/uscode/text/42/675>).

⁷ See <https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0631+hil>.

⁸ See <https://lis.virginia.gov/cgi-bin/legp604.exe?101+ful+CHAP0551+hil>. Informational material developed by DSS on shaken baby syndrome can be found at https://www.dss.virginia.gov/family/cps/shaken_baby.cgi.

⁹ Requirements pertaining to CPR training and fire inspection records are based on OSHA requirements and are not subject to DSS discretion.

¹⁰ The Economic Impact Analysis compares the proposed regulation to the regulation in the Virginia Administrative Code. The emergency regulation is: (i) not in the Virginia Administrative Code (see <http://law.lis.virginia.gov/admincode>) and (ii) temporary. Thus, the Economic Impact Analysis assesses the impact of changing the permanent regulations. Consequently, to the extent that the proposed text matches the emergency text, some of the benefits and costs described here have likely already accrued.

¹¹ These payments have been covered in the interim by the Office of Children's Services (OCS). Funds that were allocated for these payments at DSS were transferred over to OCS. However, since these payments do not fall under Title IV-E, the state does not receive any federal reimbursement for them.

¹² See https://familyfirstvirginia.com/foster_care/qtp_faq.html.

¹³ These numbers are based on the Adoption and Foster Care Report pulled on June 29, 2022, and received in an email from DSS dated August 5, 2022.

¹⁴ The costs are also highly variable. For instance, DSS reports that the five accrediting organizations listed in the proposed text charge fees ranging from \$995 to \$13,412. See the Agency Background Document, page 6.

¹⁵ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. 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.

¹⁶ 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."

¹⁷ 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.

¹⁸ "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.

¹⁹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

²⁰ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

Agency Response to Economic Impact Analysis: The Department of Social Services reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comments.

Summary:

Standards for Licensed Children's Residential Facilities (22VAC40-151) provides standards for the public and Virginia Department of Social Services to evaluate the safety and stability of care that children and youth receive in licensed children's residential facilities (CRFs). The proposed amendments (i) align the regulation with the federal Preventing Sex Trafficking and Strengthening Families Act of 2014 and the Family First Prevention Services Act of 2018; (ii) remove and add definitions; (iii) clarify language; and (iv) make technical edits.

Chapter 151

Standards Regulations for Licensed Children's Residential Facilities

22VAC40-151-10. Definitions.

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

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Allowable variance" means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines permission is granted by the department to a licensee or applicant for licensure to meet the intent of a regulation by some means other than as specified by the regulation when the applicant or

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licensee has demonstrated that (i) enforcement will create an undue the implementation of a regulation would impose a substantial financial or programmatic hardship and (ii) resident care will not be the variance would not adversely affected affect the safety and well-being of persons in care.

"Annual" means within 13 months of the previous event or occurrence.

"Applicable state regulation" means any regulation that the promulgating state agency determines applies to the facility. The term includes modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Social Services; or other state agencies.

"Applicant" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that has applied for a license.

"Aversive stimuli" means physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substances (e.g., hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity that when applied to a resident, are noxious or painful to the individual, but in no case shall the term "aversive stimuli" include striking or hitting the individual with any part of the body or with an implement or pinching, pulling, or shaking the resident.

"Behavior support" means those principles and methods employed by a provider to help a child resident achieve positive behavior and to address and correct a child's resident's inappropriate behavior in a constructive and safe manner in accordance with written policies and procedures governing program expectations, treatment goals, child resident and staff safety and security, and the child's resident's service plan.

"Behavior support assessment" means identification of a resident's behavior triggers, successful intervention strategies, anger and anxiety management options for calming, techniques for self-management, and specific goals that address the targeted behaviors that lead to emergency safety interventions.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities, except the performance of medical procedures by medical personnel.

"Case record" or "record" means up-to-date written or electronic information relating to one resident. This information includes social data, agreements, all correspondence relating to care of the resident, service plans with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g., visitors).

When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g., staff to child ratios apply to all children present even though some may not be residents of the facility). Notwithstanding this definition, when "child" or "children" is used in reference to qualified residential treatment programs, it means any person younger than 18 years of age.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes, or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or; (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221 of the Code of Virginia; or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 of the Code of Virginia. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 of Title 20 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of its authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

"Children's residential facility" or "facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection, and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18 of the Code of Virginia;
3. A licensed or accredited hospital legally maintained as such; and or
4. Any facility licensed by the Department of Social Services as a child caring institution as of January 1, 1987, and that receives no public funds.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency facility, or any item that conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the

~~body through actions such as, but not limited to (i) striking or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) any similar action that normally inflicts pain or discomfort.~~

~~"Corrective action plan" means violations documented by the department and the facility's submitted pledged corrective action to the documented violations cited by the regulatory authority.~~

"Day" means calendar day unless the context clearly indicates otherwise.

"Department" means the State Virginia Department of Social Services.

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off for permanent staff or other situations that should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care, except self-admittance to a temporary emergency shelter facility or a court-ordered placement.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or the child's family.

"Foster home" means a residence approved by a child-placing agency or local board in which any child resides as a member of the household, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by the child's parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 of Title 20 of the Code of Virginia and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation.

"Goal" means expected results or conditions that usually involve a long period of time and that are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

~~"Good character and reputation"~~ means findings have been established and knowledgeable and objective people agree that the individual maintains business or professional, family, and community relationships that are characterized by honesty, fairness, truthfulness, and dependability, and has a history or pattern of behavior that demonstrates that the individual is suitable and able to care for, supervise, and protect children. Relatives by blood or marriage, and persons who are not

knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Group home" means a children's residential facility that is a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, and serves up to 12 residents.

"Health information" means the information that encompasses the universe of oral, written, or otherwise recorded information that is created or received by an entity relating to either an individual's physical or mental health or the provision of or payment for health care to an individual.

"Health record" means the file maintained by a provider that contains personal health information.

"Human research" means any systematic investigation including research development, testing, and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulations pursuant to 45 CFR 46.101(b).

"Immediately" means directly without delay.

"Independent living program" means a competency-based program that is specifically approved by the department to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Independent living services" means those services and activities designed to assist in self sufficiency preparation of children aged provided to a child in foster care 14 and years of age or older or individuals who have turned 18 but not yet turned 21 years old was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on the person's 18th birthday and has not yet reached 21 years of age; (ii) is between 18 and 21 years of age and, immediately prior to commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between 18 and 21 years of age who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management, skills development, and access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies measurable short-term and long-term goals, objectives, strategies, and timeframes for reaching the goals, and the individuals responsible for carrying out the plan.

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"Legal guardian" means the natural or adoptive parents or other person, agency, or institution that has legal custody of a child.

"License" means a document verifying approval to operate a children's residential facility and that indicates the status of the facility regarding compliance with applicable state regulations.

"Live-in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living unit" means the space in which a particular group of ~~children~~ in care of ~~at~~ a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means the use of an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of a person's body as a means to control his physical activities when the individual receiving services does not have the ability to remove the device.

"Medication error" means an error made in administering a medication to a resident, including the following: (i) the wrong medication is given to a resident; (ii) the wrong resident is given the medication; (iii) the wrong dosage is given to a resident; (iv) medication is given to a resident at the wrong time or not at all; and (v) the proper method is not used to give the medication to a resident. A medication error does not include a resident's refusal of offered medication.

"Normalcy" means allowing children and youth in foster care to experience childhood and adolescence in ways similar to peers who are not in foster care by empowering children's residential facilities staff to use the reasonable and prudent parent standard referenced in Public Law 113-183 (42 USC §§ 671 and 675) when making decisions regarding extracurricular, enrichment, and social activities.

"Objective" means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more ~~children~~ residents.

"Parent" means a natural or adoptive parent. "Parent" means either parent unless the facility has been provided documentation that there is a legally binding instrument, a state law, or a court order governing such matters as divorce, separation, or custody, that provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Personal health information" means the information that encompasses the universe of oral, written or otherwise recorded information that is created or received by an entity relating to either an individual's physical or mental health or the provision of or payment for health care to an individual.

"Pharmacological restraint" means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when the individual's behavior places him or others at imminent risk and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.

"Physical restraint" (also referred to as a "manual hold") means use of a physical intervention or "hands-on" hold to prevent an individual from moving his body when that individual's behavior places him ~~the individual~~ or others at imminent risk.

"Placement" means an activity by any person that provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or children's residential facility.

"Premises" means the tracts of land on which any part of a residential facility ~~for children~~ is located and any buildings on such tracts of land.

"Provider" or "licensee" or "sponsor" means the individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity to whom a license is issued and who is legally responsible for compliance with the regulatory and statutory requirements relating to the facility.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by local board of social services or licensed-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for ~~children~~ in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care on site and within the scope of their practice and are available 24 hours a day, seven days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and the child's siblings and other family; documents and maintains records of such outreach efforts; and maintains

contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 USC § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 USC § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in the child's foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2 of the Code of Virginia.

"Reasonable and prudent parent standard," in accordance with 42 USC § 675(10), means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child that residential care staff shall use when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.

"Resident" means a person admitted to a children's residential facility for supervision, care, or training on a 24-hour per day basis.

"Rest day" means a period of not less than 24 consecutive hours during which a staff person has no responsibility to perform duties related to the facility.

"Routine admission" means the admittance of a child an individual following evaluation of an application for admission and execution of a written placement agreement.

"Rules of conduct" means a listing of a facility's rules or regulations that is maintained to inform residents and others about behaviors that are not permitted and the consequences applied when the behaviors occur.

"Sanitizing agent" means any substance approved by the Environmental Protection Agency to destroy bacteria.

"Seclusion" means the involuntary placement of an individual alone in an area secured by a door that is locked or held shut by a staff person by physically blocking the door or by any other physical or verbal means so that the individual cannot leave it.

"Self-admission" means the admittance of a child who seeks admission to a temporary emergency shelter facility as permitted by Virginia statutory law pursuant to § 63.2-1817 of the Code of Virginia without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions that pose a threat to the health, safety, or welfare of residents.

"Standard" means a statement that describes in measurable terms a required minimum performance level. The term "standard" and the term "regulation" may be used interchangeably.

"Strategies" means a series of steps and methods used to meet goals and objectives.

"Strip search" means a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

"Structured program of care" means a comprehensive planned daily routine, including appropriate supervision that meets the needs of each resident both individually and as a group.

"Student/intern" "Student or intern" means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern student or intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern the student or intern, the educational institution, and the facility.

"Substantial compliance" means that while there may be noncompliance with one or more standards regulations that represents minimal risk, compliance clearly and obviously exists with most of the standards regulations as a whole.

"Target population" means individuals with a similar, specified characteristic or disability.

"Temporary contract worker" means an individual who is not a direct salaried employee of the provider but is employed by a third party and is not a consistently scheduled staff member.

"Temporary emergency shelter facility" means an emergency shelter specifically approved to provide a range of services, as needed, on an individual basis not to exceed 90 days, except that this term does not include secure detention facilities.

"Therapy" means provision of direct diagnostic, preventive and treatment services where functioning is threatened or

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affected by social and psychological stress or health impairment.

"Time out" "Time-out" means the involuntary removal of a resident by a staff person from a source of reinforcement to a different open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.

"Trauma" means an event or situation that causes short-term and long-term distress or family disruption and can create substantial damage to an individual's physical, emotional, and psychological well-being.

"Trauma-informed" means services or programs designed to or on behalf of a resident that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of trauma-informed approach and trauma-specific interventions to address trauma's consequences and facilitate healing.

"Volunteers" means any individual or group who, of their own free will, and without any financial gain, provides goods and services to the program without compensation.

"Wilderness campsite program" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school, or community. In lieu of or in addition to dormitories, cabins, or barracks for housing residents, primitive campsites are used to integrate learning, mentoring, and group process with real living needs and problems for which the resident can develop a sense of social responsibility and self-worth.

22VAC40-151-30. Inspection of facilities.

A. Representatives of the department shall make announced and unannounced inspections during the effective dates of the license. The purpose of these inspections is to monitor compliance with applicable standards laws and regulations.

B. The department shall notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Children's Services, of multiple health and safety or human rights violations in children's residential facilities when such violations result in the lowering of the license or certificate to provisional status.

22VAC40-151-50. General requirements.

A. The provider shall demonstrate substantial compliance with these standards this chapter to demonstrate that its program and physical plant provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances that pose an immediate and direct danger to residents.

B. Corporations sponsoring children's residential facilities for children shall maintain their corporate status in accordance with Virginia law.

C. Each provider shall self-report within 10 days, to the department, lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges against staff that may have been made relating to the health and safety or human rights of residents.

D. The provider shall comply with all other applicable federal, state, or local laws and regulations.

E. The provider's current policy and procedure manual shall be readily accessible to all staff.

F. The provider shall comply with its own policies and procedures.

22VAC40-151-70. Modification.

A. A contemplated change in operation that would affect the terms of the license shall not be implemented prior to approval by the department. The provider will be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license is required.

B. The department may modify the term of a facility's license at any time during the licensure period based on a change in the facility's compliance with these standards this chapter and other applicable statutes and regulations.

22VAC40-151-120. Responsibilities of the provider.

A. The provider shall appoint a qualified chief administrative officer to whom it delegates, in writing, the authority and responsibility for administrative direction of the facility.

B. The provider shall develop and implement a written decisionmaking decision-making plan that shall provide for a staff person with the qualifications of the chief administrative officer or program director to be designated to assume the temporary responsibility for the operation of the facility. Each plan shall include an organizational chart.

C. The provider shall develop a written statement of the objectives of the facility, including a description of the target population and the programs to be offered. Target population means individuals with a similar, specified characteristic or disability.

D. The provider shall develop and implement written policies and procedures to monitor and evaluate service quality and effectiveness on a systematic and on-going basis. The provider shall implement improvements when indicated.

22VAC40-151-180. Facilities serving persons over the age of older than 17 years of age.

Facilities that are approved to serve persons over the age of older than 17 years of age shall comply with these standards

this chapter for all occupants regardless of age, except when it is determined by the department that housing, programs, services, and supervision for such persons are provided separately from those for the other residents.

22VAC40-151-210. Qualifications.

A. Standards Regulations establishing minimum position qualifications shall be applicable to all providers. In lieu of the minimum position qualifications contained in this chapter, providers subject to (i) the regulations of the Virginia Department of Human Resource Management or (ii) the regulations of a local government personnel office may develop written minimum entry-level qualifications in accord with the regulations of the supervising personnel authority.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these standards this chapter shall:

1. Meet the qualifications of the position or positions;
2. Fully comply with all applicable standards regulations for each function; and
3. Demonstrate a working knowledge of the policies and procedures that are applicable to his the specific position or positions.

C. When services or consultations are obtained on a contractual basis they, the services or consultations shall be provided by professionally qualified personnel.

22VAC40-151-240. Personnel records.

A. Separate up-to-date written or automated personnel records shall be maintained for each employee, student/intern, student or intern, volunteer, and contractual service provider for whom background investigations are required by Virginia statute pursuant to § 63.2-1726 of the Code of Virginia. Content of personnel Personnel records of volunteers, students/interns students or interns, and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone telephone number, and social security number or other unique identifier;
2. Educational background and employment history;
3. Written references or notations of oral references;
4. Reports of required health examinations;
5. Annual performance evaluations;
6. Date of employment for each position held and separation;

7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;

8. Documentation of educational degrees and of professional certification or licensure;

9. Documentation of all training required by these standards this chapter and any other training received by individual staff; and

10. A current job description.

C. Personnel records, including separate health records, shall be retained in their entirety for at least three years after separation from employment, contractual service, student/intern student or intern, or volunteer service.

22VAC40-151-250. Staff development.

A. Required initial training:

1. Within seven days following their begin date, each staff member responsible for supervision of children residents shall receive basic orientation to the facility's behavior intervention policies, procedures and techniques regarding less restrictive interventions, timeout time-out, and physical restraint.

2. Within 14 days following an individual's begin date, or before an individual is alone supervising children residents, the provider shall conduct emergency preparedness and response training that shall include:

- a. Alerting emergency personnel and sounding alarms;
- b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);
- c. Using, maintaining, and operating emergency equipment;
- d. Accessing emergency information for residents, including medical information; and
- e. Utilizing community support services.

3. Within 14 days following their begin date, new employees, employees transferring from other facilities operated by the same provider, relief staff, volunteers, and students/interns students or interns shall be given orientation and training regarding:

- a. The objectives of the facility;
- b. Practices of confidentiality;
- c. The decisionmaking decision-making plan;
- d. The Standards for Licensed Children's Residential Facilities This chapter, including the prohibited actions as outlined in this regulation chapter; and
- e. Other policies and procedures that are applicable to their positions, duties, and responsibilities.

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4. Within 30 days following their begin date, all staff working with residents shall be enrolled in a standard first aid class and in a cardiopulmonary resuscitation class facilitated by the American Red Cross or other recognized authority, unless the individual is currently certified in first aid and cardiopulmonary resuscitation. Cardiopulmonary resuscitation training shall include an in-person competency demonstration.
5. Within 30 days following their begin date, all staff working with residents shall be trained in child abuse and neglect, mandatory reporting, maintaining appropriate professional relationships and interaction among staff and residents, and suicide prevention, normalcy and reasonable and prudent parent standard, and trauma and trauma-informed interventions.
6. Within 30 days following their begin date, all staff shall be trained on the facility's policies and procedures regarding standard universal precautions.
7. Within 30 days following their begin date, all staff shall be trained on appropriate siting of children's residential facilities and, good neighbor policies and, community relations, and shaken baby syndrome and its effect pursuant to § 63.2-1737 of the Code of Virginia.
8. Before they can administer medication, all staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.
9. All staff shall be trained in any area of quality improvement as identified from the results of the quality improvement plan.

B. Required annual retraining.

1. All employees, contractors, students/interns students or interns, and volunteers shall complete an annual refresher emergency preparedness and response training that shall include:
 - a. Alerting emergency personnel and sounding alarms;
 - b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);
 - c. Using, maintaining, and operating emergency equipment;
 - d. Accessing emergency information for residents, including medical information; and
 - e. Utilizing community support services.
2. All staff who administer medication shall complete annual refresher medication training.
3. All child residential care staff shall receive annual retraining on the provider's behavior intervention and timeout policies and procedures.

4. All staff working who may have interactions with residents, including residential care staff, shall receive annual retraining in child abuse and neglect, mandatory reporting, maintaining appropriate professional relationships and interaction among staff and residents, and suicide prevention.
5. All staff shall receive annual retraining on the provider's policies and procedures regarding standard universal precautions.
- C. Each full-time staff person who works with residents shall complete an additional 15 hours of annual training applicable to their job duties.
- D. Providers shall develop and implement written policies and procedures to ensure that part-time staff receive training applicable to their positions.
- E. Training provided shall be comprehensive and based on the needs of the population served to ensure that staff have the competencies to perform their jobs.

22VAC40-151-270. Applicant.

- A. Each applicant shall provide documentation that they have the applicant has been trained on appropriate siting of children's residential facilities and good neighbor policies and community relations.
- B. The applicant shall be interviewed in person by the department to determine the qualifications of the owner or operator as set out in these standards this chapter.
- C. Should the applicant not be qualified to perform the duties of the chief administrative officer, the applicant shall hire an individual with the qualifications, as set out in these standards this chapter, to perform the duties of the chief administrative officer.

22VAC40-151-280. Chief administrative officer.

- A. The chief administrative officer shall have the following responsibilities:
 1. Responsibility for compliance with the Standards for Licensed Children's Residential Facilities this chapter and other applicable standards regulations;
 2. Responsibility for all personnel;
 3. Responsibility for overseeing the facility operation in its entirety, including the approval of the design of the structured program of care and its implementation; and
 4. Responsibility for the facility's financial integrity.
- B. A chief administrative officer shall have at least:
 1. A master's degree in social work, psychology, counseling, or administration and a combination of two years of professional experience working with children and in administration and supervision;

2. A baccalaureate degree in social work, psychology, counseling, or administration and three years of combined professional experience with children, and in administration and supervisory experience; or

3. A baccalaureate degree and a combination of four years of professional experience in a children's residential facility and in administration and supervision.

C. Any ~~applicant~~ candidate for the chief administrative officer position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the chief administrative officer:

1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and

2. Documentation of prior relevant experience before the date of hire.

22VAC40-151-290. Program director.

A. The facility's program shall be directed by one or more qualified persons.

B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility, including overseeing assessments, service planning, staff scheduling, and supervision.

C. Persons directing programs of a facility licensed ~~or certified~~ to care for 13 or more residents shall be ~~full time~~ full time, qualified staff members.

D. A person appointed to direct programs shall have at least:

1. A master's degree in social work, psychology, or counseling and a combination of two years of professional experience with children, in a children's residential facility, and in administration or supervision;

2. A baccalaureate degree in social work, psychology, or counseling and a combination of three years of professional experience with children, in a children's residential facility, and in administration or supervision; or

3. A baccalaureate degree and a combination of four years of professional experience with children, in a children's residential facility, and in administration or supervision.

E. Any ~~applicant~~ candidate for the program director position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the program director:

1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and

2. Documentation of prior relevant experience before the date of hire.

22VAC40-151-310. Child Residential care supervisor.

A. Child Residential care supervisors shall have responsibility for the:

1. Development of the daily living program within each child residential care unit; and

2. Orientation, training, and supervision of direct care workers.

B. Child Residential care supervisors shall have:

1. A baccalaureate degree in social work or psychology and two years of professional experience working with children, one year of which must have been in a residential facility for children;

2. A high school diploma or a General Education Development Certificate (G.E.D.) (GED) and a minimum of five years of professional experience working with children with at least two years in a residential facility for children; or

3. A combination of education and experience working with children as approved by the department.

22VAC40-151-320. Child Residential care staff.

A. ~~The~~ child Residential care ~~worker~~ staff shall have responsibility for guidance and supervision of the ~~children~~ residents to whom ~~he~~ the staff member is assigned, including:

1. Overseeing physical care;

2. Development of acceptable habits and attitudes;

3. Management of resident behavior; and

4. Helping to meet the goals and objectives of any required service plan.

B. ~~A~~ child Residential care ~~worker~~ staff and ~~a~~ a relief child residential care ~~worker~~ staff shall:

1. Have a baccalaureate degree in human services;

2. Have an ~~associates~~ associate degree and three months of experience working with children; or

3. Be a high school graduate or have a General Education Development Certificate (G.E.D.) (GED) and have six months of experience working with children.

C. Child Residential care staff with a high school diploma or G.E.D. ~~GED~~ with no experience working with children may not work alone, but may be employed as long as they are working directly with the chief administrative officer, program director, case manager, child residential care supervisor, or a child residential care ~~worker~~ staff with one or more years of professional experience working with children.

D. An individual hired, promoted, demoted, or transferred to a ~~child care worker's~~ residential care staff position shall be at least 21 years ~~old~~ of age.

E. The provider shall not be dependent on temporary contract workers to provide resident care. A temporary contract worker

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is an individual who is not a direct salaried employee of the provider but is employed by a third party and is not a consistently scheduled staff member.

22VAC40-151-350. Support functions.

A. Child Residential care workers staff and other staff responsible for child care residents may assume the duties of nonchild nonresidential care personnel only when these duties do not interfere with their child residential care responsibilities.

B. Residents shall not be solely responsible for support functions, including but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping.

22VAC40-151-360. Buildings, inspections, and building plans.

A. All buildings and building related building-related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy.

B. The facility shall document, at the time of its original initial application evidence of consultation with state or local, provide a report from the appropriate fire prevention authorities official having jurisdiction pursuant to the Virginia Statewide Fire Prevention Code Act (§ 27.94 et seq of the Code of Virginia), § 9.1-207 of the Code of Virginia, and Virginia Statewide Fire Prevention Code (13VAC5-52).

C. The facility shall document provide annually after the initial application a report that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) Act, § 9.1-207 of the Code of Virginia, and 13VAC5-52.

D. At the time of the original initial application and at least annually thereafter, the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. General sanitation;
2. The sewage disposal system;
3. The water supply; and
4. Food service operations.

E. The buildings and physical environment shall provide adequate space and shall be of a design that is suitable to house the programs and services provided and meet specialized needs of the residents.

F. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the department and by other appropriate regulatory authorities.

G. Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.

22VAC40-151-420. Sleeping areas.

A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.

B. No more than four children residents shall share a bedroom or sleeping area.

C. Children An adolescent parent and their child may share a bedroom, and the bedroom shall not have other residents.

D. Residents who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

D. E. Beds shall be at least three feet apart at the head, foot, and sides and double-decker beds shall be at least five feet apart at the head, foot, and sides.

E. F. Sleeping quarters in facilities licensed by DSS the department prior to July 1, 1981, and facilities established, constructed, or structurally modified after July 1, 1981, except for primitive campsites, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;
2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and
3. Ceilings with a primary height at least 7-1/2 feet in height exclusive of protrusions, duct work, or dormers.

F. G. Each child resident shall have a separate, clean, comfortable bed equipped with a clean mattress, clean pillow, clean blankets, clean bed linens, and, if needed, a clean waterproof mattress cover.

G. H. Bed linens shall be changed at least every seven days and more often if needed.

H. I. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer except in buildings equipped with an automated sprinkler system as required by the Virginia Uniform Statewide Building Code (13VAC5-63).

I. J. Cribs shall be provided for residents under younger than two years of age.

J. K. Each resident shall be assigned drawer space and closet space, or their the equivalent, which that is accessible to the sleeping area for storage of clothing and personal belongings.

K. L. The environment of sleeping areas shall be conducive to sleep and rest.

22VAC40-151-430. Smoking prohibition.

Smoking and the use of electronic smoking devices shall be prohibited in living areas units and in areas where residents participate in programs.

22VAC40-151-450. Living rooms and indoor recreation space.

A. Each living unit shall have a living room, or other area for informal use, for relaxation and entertainment. The furnishings shall provide a comfortable, home-like home-like environment that is appropriate to the ages of the residents.

B. All facilities shall have indoor recreation space that contains indoor recreation materials appropriate to the ages and interests of the residents.

C. Facilities licensed or certified to care for 13 or more residents shall have indoor recreation space distinct from the living room. Recreation space is not required in every living unit.

22VAC40-151-530. Equipment and furnishings.

A. All furnishings and equipment shall be safe, clean, and suitable to the ages and number of residents.

B. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children residents sleep or participate in programs.

22VAC40-151-540. Housekeeping and maintenance.

A. All buildings shall be well ventilated and free of stale, musty, or foul odors.

B. Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

C. Buildings shall be kept free of flies, roaches, rats, and other vermin.

D. A sanitizing agent, which is any substance approved by the U.S. Environmental Protection Agency to destroy bacteria, shall be used in the laundering of bed, bath, table, and kitchen linens.

22VAC40-151-570. Admission procedures.

A. The facility shall have written criteria for admission that shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Intake and admission procedures;
4. Exclusion criteria to define those behaviors or problems that the facility does not have the staff with experience or training to manage; and
5. Description of how educational services will be provided to the population being served.

B. The facility shall accept and serve only these children residents whose needs are compatible with the services provided through the facility unless a child's an admission is ordered by a court of competent jurisdiction.

C. Each facility shall provide documentation showing proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's program description as defined by the facility's criteria of admission.

D. The facility shall document in the resident's record an inventory of the resident's clothing and personal belongings at the time of admission.

22VAC40-151-620. Application for admission.

A. Admission shall be based on evaluation of an application for admission. The requirements of this section do not apply to court-ordered placements or transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

B. Providers shall develop, and fully complete prior to acceptance for care, an application for admission that is designed to compile information necessary to determine:

1. The educational needs of the prospective resident;
2. The mental health, emotional, and psychological needs, including trauma history and symptoms, of the prospective resident;
3. The physical health needs, including the immunization needs, of the prospective resident;
4. The protection needs of the prospective resident;
5. The suitability of the prospective resident's admission;
6. The behavior support needs of the prospective resident; and
7. Information necessary to develop a service plan and a behavior support plan.

C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

D. Each facility shall develop and implement written policies and procedures to assess each prospective resident as part of the application process to ensure that:

1. The needs of the prospective resident can be addressed by the facility's services;
2. The facility's staff are trained to meet the prospective resident's needs; and
3. The admission of the prospective resident would not pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff.

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22VAC40-151-670. Resident transfer between residential facilities located in Virginia and operated by the same sponsor.

A. Except when transfer is ordered by a court of competent jurisdiction, the receiving provider shall document at the time of transfer:

1. Preparation through sharing information with the resident, the family, and the placing agency about the facility, the staff, the population served, activities, and criteria for admission;
2. Notification to the family, if appropriate, the resident, the placement agency, and the legal guardian;
3. Receipt from the sending facility of a written summary of the resident's progress while at the facility, justification for the transfer, and the resident's current strengths and needs; and
4. Receipt of the resident's record.

B. The sending facility shall retain a copy of the face sheet and a written summary of the child's resident's progress while at the facility and shall document the date of transfer and the name of the facility to which the resident has been transferred.

22VAC40-151-680. Discharge.

A. The provider shall have written criteria for discharge that shall include:

1. Criteria for a resident's completing the program that are consistent with the facility's programs and services;
2. Conditions under which a resident may be discharged before completing the program; and
3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

B. The provider's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

D. Residents shall be discharged only to the legal guardian or legally authorized representative.

E. The resident's record shall contain a list of the resident's clothing and personal belongings in possession of the resident at the time of discharge. A copy of the resident's clothing and personal belongings discharge list shall be provided to the legal guardian or legally authorized representative, as appropriate.

F. Information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be provided to the legal guardian or legally authorized representative, as appropriate.

F. G. Unless discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date, each resident's record shall contain:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child-placing agency, and resident; and
2. A written discharge plan.

G. H. Discharge summaries.

1. No later than 30 days after discharge, a comprehensive discharge summary shall be placed in the resident's record and sent to the persons or agency that made the placement. The discharge summary shall review:

- a. Services provided to the resident;
- b. The resident's progress toward meeting service plan objectives;
- c. The resident's continuing needs and recommendations if any, for further services and care;
- d. Reasons for discharge and names of persons to whom resident was discharged;
- e. Dates of admission and discharge; and
- f. Date the discharge summary was prepared and the signature of the person preparing it.

2. In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

22VAC40-151-700. Case management services.

A. The program of the facility shall be designed to provide case management services. Case management services shall address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family to maintain their relationships and prepare for the resident's future care;
3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;
4. Helping the resident strengthen his the resident's capacity to function productively in interpersonal relationships;
5. Conferring with the child residential care staff to help them understand the resident's needs in order to promote adjustment to group living; and
6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family, for independent living, or for other residential care.

B. The provision of case management services shall be documented in each resident's record.

22VAC40-151-710. Therapy.

Therapy is a provision of direct diagnostic, preventative, and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

Therapy, if provided, shall be provided by an individual (i) licensed as a therapist by the Department of Health Professions or (ii) who is licensure eligible and working under the supervision of a licensed therapist, unless exempted from these requirements under the Code of Virginia.

22VAC40-151-720. Structured program of care.

A. There shall be evidence of a structured program of care designed to:

1. Meet the residents' each resident's physical and emotional needs;
2. Identify each resident's trauma experiences and the impact on the resident's behavior to guide services and supports;
3. Provide protection, guidance, and supervision; and
3. 4. Meet the objectives of any required service plan.

B. Pursuant to § 63.2-904 of the Code of Virginia and the reasonable and prudent parent standard defined in 42 USC § 675(10)(A), the provider shall implement policies and procedures to support normalcy for residents.

1. Pursuant to 42 USC § 671(a)(10)(B), providers shall provide at least one trained staff on site to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the resident's participation in age-appropriate or developmentally appropriate activities.

2. The trained on-site staff applying the reasonable and prudent parent standard shall take into consideration (i) activities or items that are generally accepted as suitable for residents of the same chronological age or level of maturity or that are determined to be developmentally appropriate for the resident based on the development of cognitive, emotional, physical, and behavior capacities that are typical for any age or age group; and (ii) in the case of a specific resident, activities or items that are suitable for the resident based on the developmental stages attained by the resident with respect to the cognitive, emotional, physical, and behavioral capacities of the resident in accordance with 42 USC § 675(11). The staff shall consult with the child-placing agency or legal guardian for any information needed to apply the reasonable and prudent parent standard.

C. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.

C. D. A daily communication log shall be maintained to inform staff of significant happenings or problems experienced by residents.

~~D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) time of the complaint.~~

E. The identity of the individual making each entry in the daily communication log shall be recorded.

~~F. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, (ii) complaint or injury description, (iii) affected area, and (iv) time of the complaint. The facility will address health and dental complaints and injuries in accordance with 22VAC40-151-730 and 22VAC40-151-740.~~

~~G. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his the resident's age and physical condition.~~

~~G. H. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.~~

~~H. I. The structured daily routine shall comply with any facility and locally imposed curfews.~~

22VAC40-151-740. Medical examinations and treatment.

A. Each child resident accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission, except (i) the report of an examination within the preceding 12 months shall be acceptable if a child resident transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a temporary emergency shelter facility.

B. Within seven days of placement, each resident shall have had a screening assessment for tuberculosis as evidenced by the completion of a screening form containing, at a minimum, the elements found on the current screening form published by the Virginia Department of Health. The screening assessment shall be no older than 30 days.

C. A screening assessment for tuberculosis shall be completed annually on each resident as evidenced by the completion of a form containing, at a minimum, the elements of the screening form published by the Virginia Department of Health.

D. Each resident's health record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by or under the direction of a licensed physician including any recommendation for follow-up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

E. Each physical examination report shall include:

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1. Information necessary to determine the health and immunization needs of the resident, including:
 - a. Immunizations administered at the time of the exam;
 - b. Vision exam;
 - c. Hearing exam;
 - d. General physical condition, including documentation of apparent freedom from communicable disease, including tuberculosis;
 - e. Allergies, chronic conditions, and ~~handicaps~~ disabilities, if any;
 - f. Nutritional requirements, including special diets, if any;
 - g. Restrictions on physical activities, if any; and
 - h. Recommendations for further treatment, immunizations, and other examinations indicated;
2. Date of the physical examination; and
3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

F. A ~~child~~ prospective resident with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the ~~child~~ prospective resident without jeopardizing residents and staff; and
2. The facility is aware of the required treatment for the ~~child~~ prospective resident and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to temporary emergency shelter facilities.

G. Each resident's health record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to temporary emergency shelter facilities.

H. Each resident's health record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

I. Medical procedures or treatments ordered by a physician or other prescriber shall be provided according to instructions and documented in the resident's health record.

J. Each resident's health record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable.

J. K. The provider shall develop and implement written policies and procedures that include use of ~~standard~~ universal precautions and addresses communicable and contagious medical conditions. These policies and procedures shall be approved by a medical professional.

K. L. A well-stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

22VAC40-151-750. Medication.

~~A. All medication shall be securely locked and properly labeled.~~

~~B. A.~~ All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications before they can administer medication.

~~C. B.~~ Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

C. All medication shall be securely locked and properly labeled.

D. Emergency medication can be stored in an unlocked, secure location if:

1. A physician's order indicates the medication must be immediately available to the resident if there is an emergency; and

2. The facility has a department-approved plan to ensure resident safety.

~~D. E.~~ A program of medication, including over-the-counter medication, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.

~~E. F.~~ Medication prescribed by a person authorized by law shall be administered as prescribed.

~~F. G.~~ A medication administration record shall be maintained of all medicines received by each resident and shall include:

1. Resident's name;

2. Date the medication was prescribed;

3. Drug name;

4. Schedule for administration;

5. Strength;

6. Route;

7. Identity of the individual who administered the medication; and

8. Dates the medication was discontinued or changed.

~~G. H.~~ In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall

be notified as soon as possible and the actions taken by staff shall be documented.

H. L. Medication refusals shall be documented including on the medication administration record and include action taken by staff.

I. J. The provider shall develop and implement written policies and procedures for documenting medication errors, reviewing medication errors and reactions and making any necessary improvements, the disposal of medication, the storage of controlled substances, and the distribution of medication off campus. The policy and procedures must be approved by a health care professional. The provider shall keep documentation of this approval.

J. K. The telephone number of a regional poison control center and other emergency numbers shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children residents sleep or participate in programs.

K. L. Syringes and other medical implements used for injecting or cutting skin shall be stored in a locked area.

22VAC40-151-760. Nutrition.

A. Each resident shall be provided a daily diet that (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the. See U.S. Department of Agriculture Dietary Guidelines for Americans (www.dietaryguidelines.gov) for examples of diet plans meeting minimum nutritional requirements.

B. Menus of actual meals served shall be kept on file for at least six months.

C. Special diets shall be provided when prescribed by a physician and the established religious dietary practices of the resident shall be observed.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents, unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall not be more than 15 hours between the evening meal and breakfast the following day.

F. Providers shall assure ensure that food is available to residents who need to eat breakfast before the 15 hours have expired.

G. Providers shall receive approval from the department if they wish to extend the time between meals on weekends and holidays. There shall never be more than 17 hours between the evening meal and breakfast the following day on weekends and holidays.

22VAC40-151-770. Staff supervision of residents.

A. No member of the child residential care staff shall be on duty more than six consecutive days without a rest day, except in an emergency or as approved by the department for live-in staff.

B. Child Residential care staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child Residential care staff other than live-in staff shall not be on duty more than 16 consecutive hours, except in an emergency.

D. There shall be at least one trained child residential care worker, staff person on duty and actively supervising residents at all times that one or more residents are present.

E. Whenever children residents are being supervised by staff, there shall be at least one staff person present with a current basic certificate in standard first aid and a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

F. Supervision policies.

1. The provider shall develop and implement written policies and procedures that address staff supervision of children and residents, including contingency plans for resident illnesses, emergencies, off-campus activities, and resident preferences. These policies and procedures shall be based on the:

- a. Needs of the population served;
- b. Types of services offered;
- c. Qualifications of staff on duty; and
- d. Number of residents served.

2. At all times, the ratio of staff to children and residents shall be at least one staff to eight children and residents for facilities during the hours residents are awake, except when the department has approved or required a supervision plan with a different ratio based on the needs of the population served.

3. Providers requesting a ratio that allows a higher number of children and residents to be supervised by one staff person than was approved or required shall submit a justification to the lead regulatory agency that shall include:

- a. Why resident care will not be adversely affected; and
- b. How residents' resident needs will be met on an individual as well as group basis.

4. Written policies and procedures governing supervision of children and residents and any justifications for a ratio deviation that allows a higher number of children and residents to be supervised by one staff than was approved or required, shall be reviewed and approved by the regulatory authority prior to implementation.

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5. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

22VAC40-151-790. Searches.

A. Strip searches and body cavity searches are shall be prohibited. Strip searches include a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing.

B. Body cavity searches shall be prohibited. Body cavity searches include any examination of a resident's rectal or vaginal cavities, except for the performance of medical procedures by medical personnel.

C. A provider that does not conduct pat downs shall have a written policy prohibiting them.

C. D. A provider that conducts pat downs, through an external body search of a clothed resident, shall develop and implement written policies and procedures governing them that shall provide that:

1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;
2. Pat downs shall be conducted by personnel of the same gender as the resident being searched;
3. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and
4. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses, who shall be the same gender as the resident being searched.

22VAC40-151-800. Behavior support.

A. Within 30 days of admission, the provider shall develop and implement a written behavior support plan that allows the resident to self-manage his the resident's own behaviors. Each individualized plan shall include:

1. Identification of positive and problem behavior;
2. Identification of triggers for behaviors;
3. Identification of successful intervention strategies for problem behavior;
4. Techniques for managing anger and anxiety; and
5. Identification of interventions that may escalate inappropriate behaviors.

B. Individualized behavior support plans shall be developed in consultation with the:

1. Resident;
2. Legal guardian;

3. Resident's parents, if applicable;

4. Program director;

5. Placing agency staff; and

6. Other applicable individuals who are familiar with the resident, including school personnel, therapist, and fictive kin.

C. Prior to working alone with an assigned resident, each staff member shall demonstrate knowledge and understanding of that resident's behavior support plan.

D. The behavior support plan shall be reviewed and revised in consultation with the parties described in subsection B of this section each time the individualized service plan and quarterly reports are updated.

22VAC40-151-820. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators, or placing agency representative;
3. Bans on contacts and visits with family or legal guardians, except as permitted by order of a court of competent jurisdiction;
4. Delay or withholding of incoming or outgoing mail, except as permitted by order of a court of competent jurisdiction;
5. Any action that is humiliating, degrading, or abusive;
6. Corporal punishment, administered through the intentional inflicting of pain or discomfort to the body through actions, such as (i) striking or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) any similar action that normally inflicts pain or discomfort;
7. Subjection to unsanitary living conditions;
8. Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of medical, dental, or mental health care;
10. Deprivation of appropriate and necessary services;
11. Application of aversive stimuli, using physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substances (e.g., hot pepper, pepper sauce, or pepper spray)

measurable in duration and intensity that, when applied to a resident, are noxious or painful to the individual;

12. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and
14. Limitation on contacts and visits with advocates employed by the Virginia Office for Protection and Advocacy.

22VAC40-151-830. Pharmacological or and mechanical restraints.

A. Use of mechanical restraints is shall be prohibited. Mechanical restraints are mechanical devices that involuntarily restrict the freedom of movement or voluntary functioning of a limb or portion of a person's body to control physical activities when the individual receiving services does not have the ability to remove the device.

B. Use of pharmacological restraints is shall be prohibited. Pharmacological restraints are the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when the behavior places the individual or others at imminent risk and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.

22VAC40-151-840. Behavior interventions.

A. The provider shall develop and implement written policies and procedures for behavioral interventions and for documenting and monitoring the management of resident behavior. Rules of conduct, which is a listing of a facility's rules that is maintained to inform residents and others about behaviors that are not permitted and the consequences applied when the behavior occurs, shall be included in the written policies and procedures. These policies and procedures shall:

1. Define and list techniques that are used and available for use in the order of their relative degree of restrictiveness;
2. Specify the staff members who may authorize the use of each technique; and
3. Specify the processes for implementing such policies and procedures.

B. Written information concerning the policies and procedures of the provider's behavioral support and intervention programs shall be provided prior to admission to prospective residents, legal guardians, and placing agencies. For emergency and court-ordered admissions, this information shall be provided to:

1. Residents within 12 hours following admission;

2. Placing agencies within 72 hours following the resident's admission; and

3. Legal guardians within 72 hours following the resident's admission.

C. When substantive revisions are made to policies and procedures governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents prior to implementation; and
2. Legal guardians and placing agencies prior to implementation.

D. The provider shall develop and implement written policies and procedures governing use of physical restraint that shall include:

1. The staff position who will write the report and timeframe;
2. The staff position who will review the report and timeframe; and
3. Methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

E. All physical restraints shall be reviewed and evaluated to plan for continued staff development for performance improvement.

F. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

G. Trained staff members may physically restrain a resident only after less restrictive interventions have failed or when failure to restrain would result in harm to the resident or others.

H. Only trained staff members may manage resident behavior.

I. Each application of physical restraint shall be fully documented in the resident's record, including:

1. Date;
2. Time;
3. Staff involved;
4. Justification for the restraint;
5. Less restrictive interventions that were unsuccessfully attempted prior to using physical restraint;
6. Duration;
7. Description of method or methods of physical restraint techniques used;
8. Signature of the person completing the report and date; and
9. Reviewer's signature and date.

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J. Providers shall ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques.

K. The provider shall review the facility's behavior intervention techniques and policies and procedures at least annually to determine appropriateness for the population served.

L. Any time ~~children~~ residents are present, staff must be present who have completed all ~~trainings~~ training in behavior intervention.

22VAC40-151-850. Seclusion.

Seclusion is shall be prohibited. Seclusion is the involuntary placement of an individual alone in an area secured by a door that is locked or held shut by a staff person by physically blocking the door or by any other physical or verbal means so that the individual cannot leave.

22VAC40-151-860. Education.

A. The child, if in foster care, shall be allowed to continue to attend the school in which the child was enrolled prior to admission, upon the joint determination of the placing agency and the local school division that such attendance is the child's best interest in accordance with § 22.1-3.4 of the Code of Virginia.

1. If it is not in the child's best interest to remain in the child's school of origin, the child shall be immediately enrolled in the new school system even if the child is unable to produce records normally required for enrollment; and

2. The new school shall immediately contact the school of origin to obtain relevant academic and other records.

B. Each resident of compulsory school attendance age, if the resident is not in foster care, shall be enrolled, as provided in the Code of Virginia, in an appropriate educational program within five school business days. Documentation of the enrollment shall be kept in the resident's record.

B. C. The provider shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

C. D. Providers operating educational programs for ~~children~~ residents with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

D. E. When a child resident with a disability has been placed in a residential facility, the facility shall contact the division superintendent of the resident's home locality. Documentation of the contact with the resident's home school shall be kept in the resident's record.

E. F. A provider that has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

F. G. Each provider shall develop and implement written policies and procedures to ensure that each resident has adequate study time.

22VAC40-151-870. Religion.

A. The provider shall have and implement written policies regarding opportunities for residents to participate in religious activities.

B. The provider's policies on religious participation shall be available to residents and any individual or agency considering placement of a child in the facility.

C. Residents shall not be coerced to participate in religious activities.

22VAC40-151-880. Recreation.

A. The provider shall have a written description of its recreation program that describes activities that are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the residents that includes:

1. One on-site employee who is designated to be the caregiver authorized to apply the reasonable and prudent parent standard to make decisions involving the resident's participation in age-appropriate or developmentally appropriate activities in accordance with the Preventing Sex Trafficking and Strengthening Families Act (42 USC 671a) and § 63.2-904 of the Code of Virginia;

2. Opportunities for individual and group activities;

2. 3. Free time for residents to pursue personal interests that shall be in addition to a formal recreation program;

3. 4. Use of available community recreational resources and facilities;

4. 5. Scheduling of activities so that they do not conflict with meals, religious services, educational programs, or other regular events; and

5. 6. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

B. The provider shall develop and implement written policies and procedures to ensure the safety of residents participating in recreational activities that include:

1. How activities will be directed and supervised by individuals knowledgeable in the safeguards required for the activities;

2. How residents are assessed for suitability for an activity and the supervision provided; and

3. How safeguards for water-related activities will be provided, including ensuring that a certified ~~life-guard~~ lifeguard supervises all swimming activities.

C. For all overnight recreational trips away from the facility, the provider shall document trip planning to include:

1. A supervision plan for the entire duration of the activity, including awake and sleeping hours;
2. A plan for safekeeping and distribution of medication;
3. An overall emergency, safety, and communication plan for the activity, including emergency numbers of facility administration;
4. Staff training and experience requirements for each activity;
5. Resident preparation for each activity;
6. A plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity;
7. A trip schedule giving addresses and ~~phone~~ telephone numbers of locations to be visited and how the location was chosen/evaluated chosen and evaluated;
8. A plan to evaluate ~~residents~~ each resident's physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;
9. A plan to ensure that a certified ~~life-guard~~ lifeguard supervises all swimming activities in which residents participate; and
10. Documentation of any variations from trip plans and reason for the variation.

D. All out-of-state or out-of-country recreational trips require written permission from each resident's legal guardian. Documentation of the written permission shall be kept in the resident's record.

22VAC40-151-900. Clothing.

A. Provision shall be made for each resident to have an adequate supply of clean, comfortable, and well-fitting clothes and shoes for indoor and outdoor wear.

B. Clothes and shoes shall be similar in style to those generally worn by ~~children~~ individuals of the same age in the community who are engaged in similar activities.

C. Residents shall have the opportunity to participate in the selection of their clothing.

D. Residents shall be allowed to take personal clothing when leaving the facility.

22VAC40-151-950. Vehicles and power equipment.

A. Transportation provided for or used by ~~children~~ residents shall comply with local, state, and federal laws relating to:

1. Vehicle safety and maintenance;

2. Licensure of vehicles;

3. Licensure of drivers; and

4. ~~Child~~ Resident passenger safety, including requiring ~~children~~ residents to wear appropriate seat belts or restraints for the vehicle in which ~~they~~ the residents are being transported.

B. There shall be written safety rules for transportation of residents appropriate to the population served that shall include taking head counts at each stop.

C. The provider shall develop and implement written safety rules for use and maintenance of vehicles and power equipment.

22VAC40-151-960. Serious incident reports.

A. Any serious incident, accident, or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24 hours to the placing agency, and to either the parent or legal guardian, or both as appropriate. The provider shall make a written reference in the ~~child's~~ resident's record that a report was made.

B. The provider shall document the following:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report; and
5. The name of the person to whom the report was made.

C. The provider shall notify the department within 24 hours of any serious illness or injury, any death of a resident, and all other situations as required by the department. Such reports shall include:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

22VAC40-151-970. Suspected child abuse or neglect.

A. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff; and

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2. Promptly referring, consistent with requirements pursuant to § 63.2-1509 of the Code of Virginia, suspected cases of child abuse and neglect to the local child protective services unit and for cooperating with the unit during any investigation.

B. Any case of suspected child abuse or neglect shall be reported to the local child protective services unit as required by pursuant to § 63.2-1509 of the Code of Virginia. The provider shall make a written reference in the ~~child's~~ resident's record that a report was made.

C. Any case of suspected child abuse or neglect occurring at the facility, on a facility-sponsored event or excursion, or involving facility staff shall be reported immediately to the department, the placing agency, and to either the resident's parent or legal guardian, or both, as appropriate. The provider shall make a written reference in the ~~child's~~ resident's record that a report was made.

D. When a case of suspected child abuse or neglect is reported to child protective services, the provider shall document the following:

1. The date and time the suspected abuse or neglect occurred;
2. A description of the suspected abuse or neglect;
3. Action taken as a result of the suspected abuse or neglect;
4. The name of the person who made the report to child protective services; and
5. The name of the person to whom the report was made at the local child protective services unit or the department's toll free child abuse and neglect hotline.

22VAC40-151-980. Grievance procedures.

A. The provider shall develop and implement written policies and procedures governing the handling of grievances by residents. If not addressed by other applicable standards regulations, the policies and procedures shall:

1. Be written in clear and simple language;
2. Be communicated to the residents in an age appropriate or developmentally appropriate manner;
3. Be posted in an area easily accessible to residents and their parents and legal guardians;
4. Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and
5. Require continuous monitoring by the provider of any grievance to assure ensure there is no retaliation or threat of retaliation against the ~~child~~ resident.

B. All documentation regarding grievances shall be kept on file at the facility for three years unless other regulations require a longer retention period.

22VAC40-151-990. Emergency and evacuation procedures.

A. The provider shall develop a written emergency preparedness and response plan for all locations. The plan shall address:

1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks, (ii) communitywide plans to address different disasters and emergency situations, and (iii) assistance, if any, that the local emergency management office will provide to the facility in an emergency;
2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather that is an extreme environment or climate condition that poses a threat to the health, safety, or welfare of residents, fire, flooding, work place workplace violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;
3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities, coordination of logistics during the emergency, communications, life safety of employees, contractors, students/intern students and interns, volunteers, visitors and residents, property protection, community outreach, and recovery and restoration;
4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, students/interns students and interns, volunteers, visitors, equipment, and vital records; and restoring services. Emergency procedures shall address:
 - a. Communicating with employees, contractors, and community responders;
 - b. Warning and notification of residents;
 - c. Providing emergency access to secure areas and opening locked doors;
 - d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;
 - e. Relocating residents, if necessary;
 - f. Notifying family members and legal guardians;
 - g. Alerting emergency personnel and sounding alarms; and
 - h. Locating and shutting off utilities when necessary;
5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and
6. Schedule A schedule for testing the implementation of the plan and conducting emergency preparedness drills.

B. The provider shall develop emergency preparedness and response training for all employees, contractors, ~~students/interns~~ students and interns, and volunteers that shall include responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency information for residents including medical information; and
5. Utilizing community support services.

C. The provider shall document the review of the emergency preparedness plan annually and make necessary revisions. Such revisions shall be communicated to employees, contractors, ~~students/interns~~ students and interns, and volunteers and incorporated into training for employees, contractors, ~~students/interns~~ students and interns, and volunteers and orientation of residents to services.

D. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety, and welfare of residents, the provider shall take appropriate action to protect the health, safety, and welfare of the residents and take appropriate action to remedy the conditions as soon as possible.

E. Employees, contractors, ~~students/interns~~ students and interns, and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

F. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety, and welfare of residents, the provider should first respond and stabilize the ~~disaster/emergency~~ disaster or emergency. After the ~~disaster/emergency~~ disaster or emergency is stabilized, the provider shall report the ~~disaster/emergency~~ disaster or emergency to the legal guardian and the placing agency as soon as possible of the conditions at the facility and report the ~~disaster/emergency~~ disaster or emergency to the department as soon as possible, but no later than 72 hours after the incident occurs.

G. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where ~~they the~~ the floor plans can easily be seen by staff and residents.

H. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

I. At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

J. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities;
4. Simulated use of emergency equipment; and
5. Practice in securing resident emergency information.

K. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

L. A record shall be maintained for each evacuation drill and shall include the following:

1. Buildings in which the drill was conducted;
2. Date and time of drill;
3. Amount of time to evacuate the buildings;
4. Specific problems encountered;
5. Staff tasks completed, including:
 - a. Head count; and
 - b. Practice in notifying emergency authorities; and
6. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

M. The record for each evacuation drill shall be retained for three years after the drill.

N. The facility shall assign one staff member who shall ensure that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.

22VAC40-151-1020. Campsite programs or adventure activities.

A. All wilderness campsite programs and providers that take residents on ~~wilderness/adventure~~ wilderness or adventure activities shall develop and implement policies and procedures that include:

1. Staff training and experience requirements for each activity;
2. Resident training and experience requirements for each activity;
3. Specific staff-to-resident ratio and supervision plan appropriate for each activity, including sleeping arrangements and supervision during night time hours;
4. Plans to evaluate and document each participant's physical health throughout the activity;

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5. Preparation and planning needed for each activity and ~~time frames~~ timeframes;
6. Arrangement, maintenance, and inspection of activity areas;
7. A plan to ensure that any equipment and gear that is to be used in connection with a specified ~~wilderness/adventure~~ wilderness or adventure activity is appropriate to the activity, certified if required, in good repair, in operable condition, and age and body size appropriate;
8. Plans to ensure that all ropes and paraphernalia used in connection with rope rock climbing, rappelling, high and low ropes courses, or other adventure activities in which ropes are used are approved annually by an appropriate certifying organization, and have been inspected by staff responsible for supervising the adventure activity before engaging residents in the activity;
9. Plans to ensure that all participants are appropriately equipped, clothed, and wearing safety gear, such as a helmet, goggles, safety belt, life jacket, or a flotation device, that is appropriate to the adventure activity in which the resident is engaged;
10. Plans for food and water supplies and management of these resources;
11. Plans for the safekeeping and distribution of medication;
12. Guidelines to ensure that participation is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;
13. Overall emergency, safety, and communication plans for each activity, including rescue procedures, frequency of drills, resident accountability, prompt evacuation, and notification of outside emergency services; and
14. Review of trip plans by the trip coordinator.

B. All wilderness campsite programs and providers ~~that who~~ take residents on ~~wilderness/adventure~~ wilderness or adventure activities must designate one staff person to be the trip coordinator who will be responsible for all facility wilderness or adventure trips.

1. This person must have experience in and knowledge regarding wilderness activities and be trained in wilderness first aid. The individual must also have at least one year experience at the facility and be familiar with the facility procedures, staff, and residents.
2. Documentation regarding this knowledge and experience shall be found in the individual's staff record.
3. The trip coordinator will review all trip plans and procedures and will ensure that staff and residents meet the requirements as outlined in the facility's policy regarding each ~~wilderness/adventure~~ wilderness or adventure activity to take place during the trip.

C. The trip coordinator shall conduct a ~~posttrip~~ post-trip debriefing within 72 hours of the group's return to base to evaluate individual and group goals as well as the trip as a whole.

D. The trip coordinator will be responsible for writing a summary of the debriefing session and shall be responsible for ensuring that procedures and policies are updated to reflect improvements needed.

E. A trip folder will be developed for each ~~wilderness/adventure~~ wilderness or adventure activity conducted away from the facility and shall include:

1. Medical release forms, including pertinent medical information on the trip participants;
2. ~~Phone~~ Telephone numbers for administrative staff and emergency personnel;
3. Daily trip logs;
4. Incident reports;
5. Swimming proficiency list if trip is near water;
6. Daily logs;
7. Maps of area covered by the trip; and
8. Daily plans.

F. Initial physical forms used by wilderness campsite programs and providers that take residents on wilderness or adventure activities shall include:

1. A statement notifying the doctor of the types of activities the resident will be participating in; and
2. A statement signed by the doctor stating the individual's health does not prevent ~~him~~ the individual from participating in the described activities.

G. First aid kits used by wilderness campsite programs and providers ~~that who~~ take residents on adventure activities shall be activity appropriate and shall be accessible at all times.

H. Direct care workers hired by wilderness campsite programs and providers ~~that who~~ take residents on ~~wilderness/adventure~~ wilderness or adventure activities shall be trained in a wilderness first aid course.

I. The provider shall ensure that before engaging in any aquatic activity, each resident shall be classified by the trip coordinator or ~~his~~ the coordinator's designee according to swimming ability in one of two classifications: swimmer and nonswimmer. This shall be documented in the resident's record and in the trip folder.

J. The provider shall ensure that lifesaving equipment is provided for all aquatic activities and is placed so that it is immediately available in case of an emergency. At a minimum, the equipment shall include:

1. A whistle or other audible signal device; and
2. A lifesaving throwing device.

K. A separate bed, bunk, or cot shall be made available for each person.

L. A mattress cover shall be provided for each mattress.

M. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitoes.

N. Bedding shall be clean, dry, sanitary, and in good repair.

O. Bedding shall be adequate to ensure protection and comfort in cold weather.

P. Sleeping bags, if used, shall be fiberfill and rated for 0°F.

Q. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

R. Each resident shall be provided with an adequate supply of clean clothing that is suitable for outdoor living and is appropriate to the geographic location and season.

S. Sturdy, water-resistant, outdoor footwear shall be provided for each resident.

T. Each resident shall have adequate personal storage area.

U. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other source of combustion.

V. Artificial lighting shall be provided in a safe manner.

W. All areas of the campsite shall be lighted for safety when occupied by residents.

X. Staff of the same sex may share a sleeping area with the residents.

Y. A telephone or other means of communication is required at each area where residents sleep or participate in programs.

22VAC40-151-1030. Qualified residential treatment program.

A. A qualified residential treatment program shall have a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child.

B. A qualified residential treatment program shall have registered or licensed nursing staff and other licensed clinical staff who:

1. Provide care within the scope of their practice as defined by state law;
2. Are on site according to the treatment model referred to in subsection A of this section; and
3. Are available 24 hours a day and seven days a week.

C. The qualified residential treatment program is not required to acquire nursing or other clinical staff solely through means of a direct employer-to-employee relationship.

D. To the extent appropriate and in accordance with the child's best interests, the qualified residential treatment program shall facilitate participation of family members in the child's treatment program.

E. The qualified residential treatment program shall (i) facilitate outreach to the family members of the child as appropriate, including siblings; (ii) document how the outreach is made, including contact information; and (iii) maintain contact information for any known biological and fictive kin of the child.

F. Documentation of outreach to family members and contact information of family members shall be placed in the child's record.

G. The qualified residential treatment program shall document and maintain the documentation in the child's record of how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained.

H. The qualified residential treatment program shall provide or arrange discharge planning and family-based aftercare support for at least six months post-discharge.

I. The qualified residential treatment program shall be licensed in accordance with 42 USC § 671(a)(10) and accredited by any of the following independent not-for-profit organizations:

1. The Commissioner of Accreditation of Rehabilitation Facilities (CARF);
2. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);
3. The Council on Accreditation (COA);
4. The Teaching Family Association;
5. Educational Assessment Guidelines Leading toward Excellence (EAGLE); or
6. Any other independent, not-for-profit accrediting organization approved by the U.S. Secretary of Health and Human Services.

22VAC40-151-1040. Additional requirements for foster children placed in a qualified residential treatment program.

A. The qualified residential treatment program shall coordinate with the child's placing agency, legal guardian, biological family members, relative and fictive kin, and, as appropriate, professionals who are a resource to the child and

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family, such as teachers, medical or mental health providers who have treated the resident, or clergy.

B. All documents related to a child's need for placement shall be placed within the child's record at the qualified residential treatment program, including the assessment determination of the qualified individual as defined within 42 USC § 675a(c)(1)(D)(i) and the written documentation of the approval or disapproval of the placement in a qualified residential treatment program by a court or administrative body.

C. This section shall not apply if the child placed in the qualified residential treatment program is not in foster care.

V.A.R. Doc. No. R20-6139; Filed December 24, 2025, 11:24 a.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Fast-Track Regulation

Title of Regulation: 24VAC30-41. Rules and Regulations Governing Relocation Assistance (amending 24VAC30-41-220, 24VAC30-41-290 through 24VAC30-41-320, 24VAC30-41-430, 24VAC30-41-520, 24VAC30-41-650).

Statutory Authority: §§ 25.1-402, 33.2-210, and 33.2-221 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: February 25, 2026.

Effective Date: March 12, 2026.

Agency Contact: Steven Jack, Regulatory Manager, Department of Transportation, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 786-3885, or email steven.jack@vdot.virginia.gov.

Basis: Section 25.1-402 of the Code of Virginia authorizes the Commonwealth Transportation Board to promulgate regulations necessary to carry out the provisions of Chapter 4 (25.1-400 et seq.) of Title 25.1 of the Code of Virginia. Section 33.2-221 of the Code of Virginia authorizes the board to comply fully with the provisions of federal aid acts.

Purpose: These amendments protect the health, safety, and welfare of citizens by reducing potential confusion about the information contained in the regulatory text.

Rationale for Using Fast-Track Rulemaking Process: This action is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the document being removed does not provide relevant information for the public and is no longer used by the agency.

Substance: The amendments (i) remove a document incorporated by reference (DIBR), Guidance Document for Determination of Certain Financial Benefits for Displacees, which is obsolete, and (ii) remove all references to the DIBR within the regulatory text.

Issues: The primary advantage to the public is the elimination of unnecessary text, which will make the regulation easier to read and understand. There are no disadvantages to the public. There are no advantages or disadvantages to 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 Commonwealth Transportation Board (board) proposes to remove the document incorporated by reference (DIBR) "Guidance Document for Determination of Certain Financial Benefits to Displacees, effective October 1, 2014" and all references to the DIBR within the regulatory text. Per 1VAC7-10-140, the material in a DIBR becomes the text of the regulation and an enforceable part of the regulation.

Background. In order for the Virginia Department of Transportation (VDOT) to receive federal financial assistance for highway projects, the Rules and Regulations Governing Relocation Assistance (24VAC30-41) is required to implement the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC § 4601 et seq.). The regulation provides for relocation of displaced persons and personal property in a timely manner to meet the needs of those persons and to achieve project schedules. The current regulation incorporates by reference Guidance Document for Determination of Certain Financial Benefits for Displacees, eff. October 1, 2014, and includes several references to it within the regulatory text. According to VDOT, the document is no longer used by the agency and does not provide relevant information to the public about available relocation benefits. Thus, the board proposes to remove the DIBR and all references to the DIBR within the regulatory text.

Estimated Benefits and Costs. Since the DIBR is no longer used by the agency and does not provide relevant information to the public about available relocation benefits, removing the DIBR and references to it would have no impact beyond perhaps saving readers of the regulation time spent on irrelevant information.

Businesses and Other Entities Affected. The proposed amendments potentially affect readers of regulations. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² 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.³ As the proposal neither increases cost nor reduces benefit, no adverse impact is indicated.

Small Businesses⁴ Affected.⁵ The proposed amendments do not adversely affect small businesses.

Localities⁶ Affected.⁷ The proposal neither disproportionately affects particular localities nor affects costs for local governments.

Projected Impact on Employment. The proposed amendments do not affect employment.

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

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

³ 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.

⁴ 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."

⁵ 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.

⁶ "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.

⁷ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Department of Transportation accepts the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments remove (i) a document incorporated by reference, Guidance Document for Determination of Certain Financial Benefits for Displacees, which is obsolete, and (ii) all references to the document within the regulatory text.

24VAC30-41-220. Moving expense schedule.

A. In lieu of a payment for actual costs, a displaced person or family who occupies the acquired dwelling may choose to be reimbursed for moving costs based on a moving expense schedule established by VDOT based on a room count. The schedule is revised periodically, based on a survey of movers, to reflect current costs. The schedule is used by all acquiring agencies throughout the state by agreement coordinated by the Federal Highway Administration.

The room count used will include occupied rooms within the dwelling unit plus personal property located in attics, unfinished basements, garages and outbuildings, or significant outdoor storage. Spaces included in the count must contain sufficient personal property as to constitute a room.

B. A person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons, or if the move is performed by VDOT at no cost to the person, shall be limited to \$50.

C. The cost to move a retained dwelling, any other structure, or any item determined to be real estate prior to the move, is not a reimbursable moving cost. However, if an owner-occupant retains the dwelling, including a mobile home, and chooses to use it as a means of moving personal belongings and furnishings, the owner-occupant may receive a moving cost payment based upon the moving expense schedule.

~~D. A discussion of residential move reimbursement options is contained in the "Guidance Document for Determination of Certain Financial Benefits to Displacees," effective October 1, 2014.~~

24VAC30-41-290. Actual direct losses of tangible personal property.

A. Actual, direct losses of tangible personal property are allowed when a person who is displaced from a business, farm, or nonprofit organization is entitled to relocate such property but elects not to do so. This may occur if an item of equipment is bulky and expensive to move, but is obsolete and the owner desires to replace it with a new item that performs the same function. Payments for actual, direct losses can be made only after an effort has been made by the owner to sell the item involved. When the item is sold, payment will be determined in accordance with subsection B or C of this section. If the item cannot be sold, the owner will be compensated in accordance with subsection D of this section. The sales prices and the cost of advertising and conducting the sale, must be supported by copies of bills, receipts, advertisements, offers to sell, auction records, and other data supporting the bona fide nature of the sale.

B. If an item of personal property ~~which~~ that is used in connection with the business is not moved but is replaced with a comparable item at the new location, the payment will be the lesser of:

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1. The replacement cost minus the net proceeds of the sale. Trade-in value may be substituted for net proceeds of sale where applicable; or
2. The estimated cost of moving the item to the replacement site but not to exceed 50 miles.

C. If the item is not to be replaced in the reestablished business, the payment will be the lesser of:

1. The difference between the market value of the item in place for continued use at its location prior to displacement less its net proceeds of the sale; or
2. The estimated cost of moving the item to the replacement site but not to exceed 50 miles. ~~(See "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective October 1, 2014, for example.)~~

D. If a sale is not effected under subsection B or C of this section because no offer is received for the property and the property is abandoned, payment for the actual direct loss of that item may not be more than the fair market value of the item for continued use at its location prior to displacement or the estimated cost of moving the item 50 miles, whichever is less, plus the cost of the attempted sale, irrespective of the cost to VDOT of removing the item.

E. The owner will not be entitled to moving expenses or losses for the items involved if the property is abandoned with no effort being made to dispose of it by sale; or by removal at no cost. The district manager may allow exceptions to this requirement for good cause.

F. The cost of removal of personal property by VDOT will not be considered as an offsetting charge against other payments to the displaced person.

24VAC30-41-300. Searching expenses.

A. A displaced business, farm operation, or nonprofit organization is entitled to reimbursement for actual expenses, not to exceed \$2,500, as VDOT determines to be reasonable, which are incurred in searching for a replacement location, and includes expenses for:

1. Transportation. A mileage rate determined by VDOT will apply to the use of an automobile;
2. Meals and lodging away from home;
3. Time spent searching, based on reasonable salary or earnings;
4. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site;
5. Time spent in obtaining permits and attending zoning hearings; and
6. Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

B. Documentation for a move search claim will include expense receipts and logs of times, dates, and locations related to the search. ~~(See "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective October 1, 2014, for example.)~~

24VAC30-41-310. Reestablishment expenses.

A. A small business, farm, or nonprofit organization may be eligible to receive a payment, not to exceed \$25,000, for expenses actually incurred in reestablishing operations at a replacement site. A small business, farm, or nonprofit organization that elects a fixed payment in lieu of actual moving expenses is not eligible for a reestablishment expense payment.

B. Eligible expenses. Reestablishment expenses must be reasonable and actually incurred. They may include the following items:

1. Repairs or improvements to the replacement real property as required by federal, state, or local law, code, or ordinance;
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;
3. Construction and installation costs for exterior signing to advertise the business;
4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;
5. Licenses, fees, and permits when not paid as part of moving expenses;
6. Advertisement of replacement location;
7. Increased costs of operation during the first two years at the replacement site for such items as:
 - a. Lease or rental charges;
 - b. Personal or real property taxes;
 - c. Insurance premiums; and
 - d. Utility charges, excluding impact fees; and

~~A discussion of business reestablishment costs is contained in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees," effective October 1, 2014.~~

C. Ineligible expenses. The following is a nonexclusive listing of ineligible reestablishment expenditures:

1. Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures;
2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation;

3. Interest on money borrowed to make the move or purchase the replacement property; and
4. Payment to a part-time business in the home that does not contribute materially to the household income.

24VAC30-41-320. Fixed payment in lieu of actual costs.

A. A displaced business, farm, or nonprofit organization, meeting eligibility criteria may receive a fixed payment in lieu of a payment for actual moving and related expenses. The amount of this payment is equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than \$75,000.

B. Criteria for eligibility. For an owner of a displaced business to be entitled to a payment in lieu of actual moving expenses, the district office must determine that:

1. The business owns or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move, and it vacates or relocates from its displacement site.
2. The displaced business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless VDOT determines, for a stated reason, that it will not suffer a substantial loss of its existing patronage.
3. The business is not part of a commercial enterprise having more than three other entities that are not being acquired by VDOT and that are under the same ownership and engaged in the same or similar business activities. (For purposes of this rule, any remaining business facility that did not contribute materially to the income of the displaced person during the two taxable years prior to displacement shall not be considered "other entity.")
4. The business is not operated at displacement dwelling or site solely for the purpose of renting such dwelling or site to others.
5. The business contributed materially to the income of the displaced person during the two taxable years prior to displacement. However, VDOT may waive this test for good cause. A part-time individual or family occupation in the home that does not contribute materially to the displaced owner is not eligible.

C. In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;
2. Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

3. The entities are held out to the public and to those customarily dealing with them, as one business; and
4. The same person, or closely related persons own, control, or manage the affairs of the entities.

The district office will make a decision after consideration of all the ~~above~~ items in subdivisions 1 through 4 of this subsection and so advise the displacee.

D. A displaced farm operation may choose a fixed payment in lieu of the payments for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than \$75,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if VDOT determines that:

1. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
2. The partial acquisition caused a substantial change in the nature of the farm operation.

A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$75,000 in lieu of the payments for actual moving and related expenses if VDOT determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test unless VDOT demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

Gross revenues for a nonprofit organization include membership fees, class fees, cash donations, tithes, receipts from sales, or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are for administrative support, such as rent, utilities, salaries, advertising, and other like similar items, as well as fund raising fundraising expenses. Operating expenses are not included in administrative expenses.

E. Payment determination. The term "average annual net earnings" means one-half of all net earnings of the business or farm before federal, state, and local income taxes, during the two tax years immediately preceding the tax year in which the business or farm is relocated. If the two years immediately preceding displacement are not representative, VDOT may use a period that would be more representative. For instance, proposed construction may have caused recent outflow of business customers, resulting in a decline in net income for the business.

The term "average annual net earnings" include any compensation paid by the business to the owner, spouse, or

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dependents during the two-year period. In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by ~~a husband, his wife spouses~~ and their children shall be treated as one unit.

If the business, farm, or nonprofit organization was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate.

F. Information to be provided by owner. For the owner of a business, farm, or nonprofit organization to be entitled to this payment, the owner must provide information to support the net earnings of the business, farm, or nonprofit organization. State or federal tax returns for the tax years in question are the best source of this information. However, certified financial statements can be accepted as evidence of earnings. The tax returns furnished must either be signed and dated or accompanied by a certification from the business owner that the returns being furnished reflect the actual income of the business as reported to the Internal Revenue Service or the State Department of Taxation for the periods in question. The owner's statement alone would not be sufficient if the amount claimed exceeded the minimum payment of \$1,000.

~~A more complete discussion of this benefit is contained in the "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective October 1, 2014.~~

24VAC30-41-430. Purchase supplement payment computation.

A. Method.

1. The probable selling price of a comparable dwelling will be determined by the district office by analyzing at least three dwellings from the inventory of available housing, Library Form RW-69B, which are available on the private market and which meet the criteria of a comparable replacement dwelling. Less than three comparables may be used for this determination when fewer comparable dwellings are available. The relocation agent performing the determination must provide a full explanation supporting the determination, including a discussion of efforts to locate more than one comparable. One comparable, from among those evaluated and considered, will be selected as the basis for the purchase supplement determination. The selection will be made by careful consideration of all factors in the dwellings being considered ~~which that~~ affect the needs of the displacee with reference to the elements in the definition of comparable replacement housing.

~~Refer to the "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective October 1, 2014, for a step by step summary of the~~

~~determination process, and an example of the purchase supplement payment computation.~~

2. If comparable decent, safe, and sanitary housing cannot be located, after a diligent search of the market, available non-decent, safe, and sanitary replacement dwellings may be used as the basis for the maximum amount of the purchase supplement. In these cases, the maximum payment will be established by obtaining cost estimates from persons qualified to correct the decent, safe, and sanitary deficiencies and adding this amount to the probable selling price of the available replacement housing.

A displacee will not be required to vacate the displacement dwelling until decent, safe, and sanitary housing has been made available.

B. Major exterior attributes. When the dwelling selected in computing the payment is similar, except it lacks major exterior attributes present at the displacement property, such as a garage, outbuilding, ~~or~~ swimming pool, etc., the appraised value of such items will be deducted from the acquisition cost of the acquired dwelling for purposes of computing the payment. No exterior attributes are to be added to the comparable. However, the added cost of actually building an exterior attribute at the replacement property occupied, may be added to the acquisition cost provided major exterior attributes having the same function are found in the displacement property and in the comparable used to determine the maximum payment.

The following calculation shows how a purchase supplement is determined when a major exterior attribute is present:

Example

Major Exterior Attribute (swimming pool)

The appraiser assigned \$5,000 contributing value for the pool, and a total property value of \$100,000. A comparable house, not having a pool, is listed for sale at \$105,000. After a 3.0% adjustment, a probable selling price of \$101,850 is determined for the comparable property. The purchase supplement amount is computed below:

Comparable Dwelling (adjusted)	\$101,850
Less:	
Displacement property value	\$100,000
Less value of the pool	\$5,000
Adjusted displacement property value	\$95,000
Purchase Supplement Amount	\$6,850

C. Comparable housing not available.

1. In the absence of available comparable housing upon which to compute the maximum replacement housing

payment, the district office may establish the estimated selling price of a new comparable decent, safe, and sanitary dwelling on a typical home site. To accomplish this, the district office will contact at least two reputable home builders for the purpose of obtaining firm commitments for the cost of building a comparable dwelling on a typical home site.

2. If the only housing available greatly exceeds comparable standards, a payment determination may be based on estimated construction cost of a new dwelling that meets, but does not exceed, comparable standards.

24VAC30-41-520. General.

A. A residential tenant who was in occupancy at the displacement dwelling for 90 days or more before the initiation of negotiations for the property is eligible to receive a rent supplement to provide for relocation to comparable replacement housing.

B. A tenant eligible under this category can receive a replacement housing payment not to exceed \$7,200 to rent a decent, safe, and sanitary replacement dwelling. A tenant may be eligible for a down payment supplement up to \$7,200. The monetary limit of \$7,200 for a rental replacement housing payment, or a down payment supplement, does not apply if provisions of last resort housing are applicable (see Part XI (24VAC30-41-650 et seq.) of this chapter).

C. A discussion of rent supplement determination is found in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees," effective October 1, 2014.

24VAC30-41-650. General.

A. No displaced persons will be required to move until a comparable replacement dwelling is made available within their financial means. Comparable replacement housing may not be available on the private market or does not meet specific requirements or special needs of a particular displaced family. Also, housing may be available on the market, but the cost exceeds the benefit limits for tenants and owners of \$7,200 and \$31,000, respectively. If housing is not available to a displacee and the transportation project would thereby be prevented from proceeding in a timely manner, VDOT is authorized to take a broad range of measures to make housing available. These measures, which are outside normal relocation benefit limits, are called collectively last resort housing.

B. It is the responsibility of VDOT to provide a replacement dwelling, which that enables the displacee to relocate to the same ownership or tenancy status as prior to displacement. The displacee may voluntarily relocate to a different status. The district office may also provide a dwelling, which that changes a status of the displacee with their the displacee's concurrence, if a comparable replacement dwelling of the same status is not available.

A more complete discussion of last resort housing appears in the "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective October 1, 2014.

DOCUMENTS INCORPORATED BY REFERENCE (24VAC30-41)

~~Guidance Document for Determination of Certain Financial Benefits for Displacees, eff. October 1, 2014, Right of Way and Utilities Division, Virginia Department of Transportation~~

No document is currently incorporated by reference into this regulation.

V.A.R. Doc. No. R26-8360; Filed December 23, 2025, 11:33 a.m.

Final Regulation

Title of Regulation: 24VAC30-61. Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities (amending 24VAC30-61-10 through 24VAC30-61-40).

Statutory Authority: §§ 33.2-210 and 33.2-300 of the Code of Virginia.

Effective Date: February 25, 2026.

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:

As a result of periodic review, the amendments (i) remove outdated and redundant language, (ii) clarify the categories of bridge-tunnel facilities, and (iii) update references to the Code of Federal Regulations.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

24VAC30-61-10. Applicability and purpose.

This chapter applies to all state owned bridge tunnel facilities in the Commonwealth of Virginia, and establishes the rules by which all interstate, intrastate, and public and private transporters of hazardous materials are governed while traveling through these certain bridge-tunnel facilities.

24VAC30-61-20. List of state-owned bridge-tunnel facilities in the Commonwealth.

The following table lists the six state-owned bridge-tunnel facilities in the Commonwealth. The Virginia Department of Transportation owns and operates all six facilities listed to which this chapter applies. A list of telephone numbers for each facility is available at the following website: <https://www.vdot.virginia.gov/travel-traffic/freight/hazmat/>.

Name of Facility	Route	Type
Big Walker Mountain Tunnel	Interstate 77	Rural
East River Mountain Tunnel	Interstate 77	Rural

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Elizabeth River Tunnel-Downtown	Interstate 264	<u>Urban</u>
Elizabeth River Tunnel-Midtown	Route 58	<u>Urban</u>
Hampton Roads Bridge-Tunnel	Interstate 64	<u>Urban</u>
Monitor-Merrimac Memorial Bridge-Tunnel	Interstate 664	<u>Urban</u>

For purposes of this chapter, the facilities listed above in the table in this section are classified into two groups: rural and essentially distanced from bodies of water, and urban and essentially proximate to bodies of water.

24VAC30-61-30. Restrictions on hazardous material transportation across rural and distanced from water facilities.

The two rural and distanced from water tunnel facilities are: the Big Walker Mountain Tunnel and the East River Mountain Tunnel. For these the two rural tunnels, and these two only, no restrictions apply on the transport of hazardous materials, so long as transporters and shippers are in compliance with 49 CFR 100 through 180, and any present and future applicable state regulations which may become in force to implement the federal regulations. In addition, the Commissioner of Highways may, at any time, impose emergency or temporary restrictions on the transport of hazardous materials through these facilities, so long as sufficient advanced signage is positioned to allow for a reasonable detour.

Questions on this section of the regulation should be directed to the VDOT Office of Safety, Security and Emergency Management, which can be reached by calling VDOT at 804-786-4692. Copies of the regulation will be provided free of charge. For copies, please write to:

Virginia Department of Transportation

ATTN: Office of Safety, Security and Emergency Management

1221 East Broad Street

Richmond, Virginia 23219

24VAC30-61-40. Restrictions on hazardous material transportation across urban and water proximate facilities.

Hazardous materials are regulated in the four urban and water proximate tunnels (Elizabeth River (Midtown and Downtown), Hampton Roads, and Monitor Merrimac) based exclusively on the "hazard class" of the material being conveyed. The following tables in this section list those categories of materials grouped under the designations "Prohibited," "No Restrictions," or "Restricted."

Regulations concerning the transportation of hazardous materials across the Chesapeake Bay Bridge Tunnel (CBBT)

are available from the CBBT website: <https://www.cbbt.com/regulations/#hazmat>.

PROHIBITED		
Materials defined in the following classes are not allowed passage through the four urban, water proximate tunnels.		
CATEGORY	PLACARD NAME	PLACARD REFERENCE
1.1	Explosives 1.1	49 CFR 172.522
1.2	Explosives 1.2	49 CFR 172.522
1.3	Explosives 1.3	49 CFR 172.522
2.3	Poison Gas	49 CFR 172.540
4.3	Dangerous When Wet	49 CFR 172.548
6.1 (Packing Group (PG) I, inhalation hazard only)	Poison Inhalation Hazard	49 CFR 172.554 49 CFR 172.555

NO RESTRICTIONS		
Materials in the following hazard classes are not restricted in the four urban, water proximate tunnels.		
CATEGORY	PLACARD NAME	PLACARD REFERENCE
1.4	Explosives 1.4	49 CFR 172.523
1.5	Explosives 1.5	49 CFR 172.524
1.6	Explosives 1.6	49 CFR 172.525
2.2	Nonflammable Gas	49 CFR 172.528
3	Combustible Liquids	49 CFR 172.544
4.1	Flammable Solid	49 CFR 172.546
4.2	Spontaneously Combustible	49 CFR 172.547
6.1 (PG I or II, other than PG I inhalation hazard)	Poison	49 CFR 172.554
6.1 (PG III)	Keep Away From Food Inhalation Hazard	49 CFR 172.553 49 CFR 172.555
6.2	(None must be labelled as an Infectious Substance)	49 CFR 172.432 for the labeling requirement

7 Radioactive	Radioactive	49 CFR 172.556
9	Class 9	49 CFR 172.560
ORM-D	(None)	

RESTRICTED

Materials in the following hazard classes are allowed access to the four urban-water proximate tunnels in "Non-bulk" (maximum capacity of 119 gallons/450 liters or less as a receptacle for liquids, a water capacity of 1000 pounds/454 kilograms or less as a receptacle for gases, and a maximum net mass of 882 pounds/400 kilograms or less and a maximum capacity of 119 gallons/450 liters or less as a receptacle for solids) quantities per container only.

CATEGORY	PLACARD NAME	PLACARD REFERENCE
2.1	Flammable Gas	49 CFR 172.532
3	Flammable	49 CFR 172.542
5.1	Oxidizer	49 CFR 172.550
5.2	Organic Peroxide	49 CFR 172.552
8	Corrosive	49 CFR 172.558

VA.R. Doc. No. R25-8001; Filed December 23, 2025, 11:32 a.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the 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.

BOARD OF ACCOUNTANCY

Title of Document: [Inactive Status Procedure for Approval, Denial, Appeal](#).

Public Comment Deadline: February 25, 2026.

Effective Date: July 1, 2026.

Agency Contact: Alessandra Gabriel, Information and Policy Advisor, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 367-0728, or email alessandra.gabriel@boa.virginia.gov.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

AUCTIONEERS BOARD

BOARD FOR BARBERS AND COSMETOLOGY

BOARD FOR BRANCH PILOTS

CEMETERY BOARD

COMMON INTEREST COMMUNITY BOARD

BOARD FOR CONTRACTORS

FAIR HOUSING BOARD

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

REAL ESTATE APPRAISER BOARD

REAL ESTATE BOARD

BOARD FOR PROFESSIONAL SOIL SCIENTISTS, WETLAND PROFESSIONALS, AND GEOLOGISTS

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Titles of Documents: [Agency Website](#).

Equal Employment Opportunity:

Posting Information in Public Access Areas:

Release of Information:

Public Comment Deadline: February 25, 2026.

Effective Date: February 26, 2026.

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.

Guidance Documents

BOARD FOR BRANCH PILOTS

Title of Document: [Branch Pilot Renewal Requirements](#).

Public Comment Deadline: February 25, 2026.

Effective Date: February 26, 2026.

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

Titles of Documents: [Contractors Criminal History Review Matrix](#).

Interpretations and Policies.

Public Comment Deadline: February 25, 2026.

Effective Date: February 26, 2026.

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 WATER CONTROL BOARD

Titles of Documents: [Clarification on Common Plan of Development or Sale](#).

Sequencing for Perimeter Erosion and Sediment Controls.

Public Comment Deadline: February 25, 2026.

Effective Date: February 26, 2026.

Agency Contact: April Rhodes, Stormwater Program Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (571) 866-6091, or email swmguidance@deq.virginia.gov.

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Public Meeting and Opportunity for Public Comment for a Cleanup Plan for South Fork Rivanna River and Tributaries in Albemarle 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 report (TMDL) report, for the South Fork Rivanna River and tributaries in Albemarle County. These streams are listed as impaired since monitoring data does not meet Virginia's water quality standards for aquatic life (benthic impairment). 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 adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of an WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) permit in these watersheds.

A study has been completed for the South Fork Rivanna River and tributaries to identify pollutant sources and recommend reductions needed from the sources to meet water quality standards. At the public meeting, DEQ will present the results of the study and provide an overview of the draft report. Citizens are invited to provide comment on the study.

Cleanup study location: The South Fork Rivanna River cleanup study addresses the following impairments described, all of which are located in Albemarle County, Virginia.

TMDL Watershed	Impairment Description	Length (miles)	Year Initially Listed
Broad Axe Run	Impaired from its headwaters downstream to its confluence with the Mechums River.	8.32	2004
Fishing Creek	Impaired from its headwaters downstream to its confluence with the South Fork Rivanna River Reservoir.	12.54	2012

Ivy Creek	Impaired from its headwaters to its confluence with the South Fork Rivanna River Reservoir.	6.59 5.49	2008 2010
Lickinghole Creek	Impaired from its headwaters to its confluence with the Mechums River.	8.94	2010
Little Ivy Creek x-tributary	Impaired from its headwaters downstream to its confluence with Little Ivy Creek.	4.44	2016
Mechums River	Impaired from its headwaters 13.10 miles downstream to the confluence of Stockton Creek.	15.17	2004
Naked Creek	Impaired from its headwaters downstream to its confluence with the South Fork Rivanna River Reservoir.	9.83	2010
Parrott Branch x-tributary	Impaired from its headwaters downstream to its confluence with Parrott Branch.	1.15	2010
Powell Creek	Impaired from its headwaters downstream to its confluence with the South Fork Rivanna River.	10.37	2010
Slabtown Branch	Impaired from its headwaters downstream to its confluence with Lickinghole Creek.	4.92	2010

General Notices

South Fork Rivanna River	Impaired from the Rivanna Water and Sewer Authority (RWSA) South Fork Rivanna River public water intake downstream to its confluence with the Rivanna River.	3.47	2010
South Fork Rivanna x-tributary	Impaired from its headwaters downstream to its confluence with the South Fork Rivanna River.	3.21	2010

TMDL community engagement meetings: TMDL community engagement meetings to assist in development of this cleanup study were convened on December 9, 2020, February 23, 2021, September 23, 2025, and November 18, 2025.

Public meeting: The final public meeting on the development of the cleanup study will be held at the Greenwood Community Center, 865 Greenwood Road, Crozet, VA 22932 on January 29, 2026, at 5:30 p.m. In the event of inclement weather, the meeting will be held on February 5, 2026, at the same time and location.

Public comment period: January 29, 2026, to March 2, 2026.

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: Nesha McRae, Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801, telephone (540) 217-7173, or email nesha.mcrae@deq.virginia.gov.

Opportunity for Public Review of the 2024 Fish Tissue Monitoring Data

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) announces the availability of the 2024 fish tissue monitoring data.

Background: DEQ conducts routine studies of fish tissue in state waters to (i) assess the human health risks for individuals who may consume fish, (ii) identify impaired aquatic ecosystems, and (iii) plan and track the progress of cleanup efforts. Results are made available to the public each year on DEQ's website. DEQ selects sampling stations for routine fish

tissue monitoring based on input from the public and from partner agencies, such as the Department of Wildlife Resources and the Virginia Marine Resources Commission, on popular fishing locations. Sites from each of Virginia's major river basins are sampled on a rotating basis so that each basin is sampled every three years, as resources allow.

In 2024, DEQ collected fish tissue samples primarily from sites in the watersheds of the Shenandoah, James, Roanoke, Dan, and Big Sandy Rivers. Samples were analyzed for polychlorinated biphenyls (PCBs), a suite of 17 metals, including mercury, and a subset of samples were analyzed for perfluoroalkyl and polyfluoroalkyl substances (PFAs).

2024 monitoring results for PCBs and mercury are available at <https://www.deq.virginia.gov/water/water-quality/monitoring/fish-tissue-monitoring>.

2024 monitoring results for PFAs are available at <https://experience.arcgis.com/experience/8f8b1ad32de44d4ebcfbb98669296877>.

Additional information: The Virginia Department of Health (VDH) uses the data generated by DEQ's fish tissue monitoring program to determine the need for fish consumption advisories. More information on VDH fish consumption advisories is available at <https://www.vdh.virginia.gov/environmental-health/public-health-toxicology/fish-consumption-advisory>.

Contacts for more information: Questions on DEQ's fish tissue monitoring program can be directed to Rick Browder at richard.browder@deq.virginia.gov, Gabriel Darkwah at gabriel.darkwah@deq.virginia.gov, or Andrew Kirk at andrew.kirk@deq.virginia.gov. Additional information is also available on the DEQ Water Quality Monitoring website at <https://www.deq.virginia.gov/water/water-quality/monitoring>.

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

STATE BOARD OF HEALTH

Opportunity for Public Review and Public Comment - Drinking Water State Revolving Fund Program

Under the Safe Drinking Water Act (42 USC § 300f et seq.), Congress authorizes capitalization grants to the states through the Drinking Water State Revolving Loan Fund Program (DWSRF). As part of the annual DWSRF grant application process, Virginia seeks meaningful public involvement through input, review, and comments. The Virginia Department of Health (VDH) Office of Drinking Water (ODW) prepared a draft intended use plan (IUP) that explains the goals of the program, funding priorities, how ODW intends

to use the grant funds, and other important information submitted from the funding requests and set-aside suggestions.

VDH received several funding requests and set-aside suggestions following the January 2024 DWSRF funding solicitation announcement. The draft IUP and draft project lists are open for review and comment by the public for a period of 30 days and is available on the ODW website at <https://www.vdh.virginia.gov/drinking-water/drinking-water-state-revolving-fund-program/>.

A public meeting will not be held. Written comments and recommendations regarding the IUP will be accepted until February 5, 2026. VDH considers all public input and comments and will revise the IUP and project priority list as necessary. Please direct requests for information and written comments to the contact listed at the end of this notice.

More information is provided under Drinking Water State Revolving Fund Program at <https://www.vdh.virginia.gov/drinking-water/drinking-water-state-revolving-fund-program/>.

Alternatively, more information may be found at https://www.vdh.virginia.gov/content/uploads/sites/14/VA-FY2025-IUP_final-7-3-2025.pdf and <https://www.vdh.virginia.gov/content/uploads/sites/14/Attachment-1-PPL-2025.pdf>.

The IUP is subject to change depending on the U.S. Environmental Protection Agency's award allocations.

Contact Information: Anthony Hess, Division Director, Financial and Construction Assistance Programs, Virginia Department of Health, Attn: Theresa Hewlett, 109 Governor Street, Sixth Floor, Richmond, VA 23219, telephone (804) 589-0413, or email anthony.hess@vdh.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.

General Notices
