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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 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.

PUBLICATION SCHEDULE AND DEADLINES

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

August 2026 through August 2027

Volume: Issue	Material Submitted By Noon*	Will Be Published On
42:26	July 22, 2026	August 10, 2026
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44:1	August 4, 2027	August 23, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Agency Decision

Title of Regulation: **9VAC25-31. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.**

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

Names of Petitioners: James Alexander and Evans Oakerson.

Nature of Petitioners' Request: On March 26, 2026, the Department of Environmental Quality received a petition to the State Water Control Board for rulemaking from James Alexander and Evans Oakerson. The petitioners assert that after the U.S. Supreme Court's decision in Sackett v. Environmental Protection Agency, 598 U.S. 651 (2023), regulatory amendments are necessary to address significant gaps in existing regulations regarding discharges into dry ditch or intermittent streams from wastewater facilities discharging 1,000 gallons or more each day. The petitioners included proposed changes to the Virginia Pollutant Discharge System (VPDES) Permit Regulation with the petition for rulemaking.

A copy of the full petition is available from the point of contact for this petition.

Agency Decision: Request denied.

Statement of Reason for Decision: At the June 23, 2026, meeting of the State Water Control Board, staff presented the board with information on the petition and a summary of the comments received during the public comment period. The State Water Control Board voted not to initiate a rulemaking in response to the petition. The rationale for denying the petition is as follows:

The petitioners assert that the U.S. Supreme Court's 2023 ruling in Sackett v. Environmental Protection Agency (598 U.S. 651 (2023) (Sackett)) compromises Virginia's ability to regulate discharges to intermittent streams and dry ditches under the Clean Water Act (33 USC § 1251 et seq.) because such waters are no longer considered "waters of the United States." According to the petitioners, this means that the Department of Environmental Quality (DEQ) can no longer rely on the provisions of the Clean Water Act or the U.S Environmental Protection Agency (EPA) to grant permits or enforce sewage discharge limitations in these settings. Based on existing authority under the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31), DEQ disagrees with the need for the board to adopt new regulations or a general permit to regulate discharges to intermittent streams and dry ditches following Sackett.

Sackett does not amend the National Pollutant Discharge Elimination System (NPDES) regulations themselves, but for NPDES programs administered by EPA, the court's definition of "waters of the United States" may be applied in a way that narrows federal jurisdiction over wetlands and non-permanent streams and reduces the universe of waterbodies that would necessitate a point source discharger to obtain a NPDES permit. How the decision affects state-administered NPDES programs depends on the nature of the state program. For those states that have adopted requirements that are consistent with federal NPDES program requirements, the application of the Sackett ruling has a similar effect: the universe of waterbodies that would necessitate a point source discharger to obtain a NPDES permit is more limited. However, for those states administering the NPDES program and that have adopted more stringent requirements, such as in Virginia, where the program applies to state waters, defined by § 62.1-44.3 of the Code of Virginia as "all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands," the state's NPDES program is not affected.

While *Sackett* may have implications at the federal level and for some states, it does not limit Virginia, board, or DEQ authority in the regulation of point source discharges to state waters, including intermittent streams and dry ditches. The State Water Control Law and the authorities of the board and DEQ remain unaffected by the change in definition of "waters of the United States." Thus, Sackett does not create a gap in DEQ's authority, under the VPDES Permit Regulation as it currently exists, to issue individual permits to point source discharges to state waters, including intermittent streams and dry ditches.

DEQ, through the issuance of a VPDES individual permit, already addresses the other revisions to the VPDES Permit Regulation the petitioners requested:

Addition of language stating that effluent leaving a system is sited in a manner that protects public health and minimizes environmental impacts: Individual permits are drafted in a manner that is protective of receiving streams by evaluating stream flows relative to discharge.

Incorporation of Reliability Class requirements from the Sewage Collection and Treatment (SCAT) Regulations (9VAC25-790): VPDES individual permits for municipal wastewater treatment incorporate Reliability Class requirements outlined in the SCAT Regulations.

Establishment of requirements for discharges to dry ditches and intermittent streams: Individual permits are drafted in a manner that is protective of the receiving stream by evaluating stream flows relative to discharge.

Additionally, the promulgation of a general permit regulation for point source discharges to dry ditches or intermittent streams for wastewater facilities discharging 1,000 gallons per day (gpd) or more would prohibit DEQ from establishing the necessary site-specific limitations, monitoring, and conditions that DEQ currently establishes through the issuance of individual permits for discharges of the same nature.

Agency Contact: Jaime Robb, Director, Water Operations Division, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 527-5086, or email jaime.robb@deq.virginia.gov.

VA.R. Doc. No. PFR26-36; Filed March 30, 2026, 2:37 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Agency Decision

Title of Regulation: **18VAC50-22. Board for Contractors Regulations.**

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

Name of Petitioner: P. Tyler.

Nature of Petitioner's Request: The petitioner requests that the Board for Contractors amend 18VAC50-22-260 or another section of the regulation. 18VAC50-22-260 provides for the board's prohibited acts and includes provisions for minimum contract requirements for those engaged in residential contracting.

The petitioner requests the board consider a regulation requiring licensed residential contractors to provide a written disclosure prior to the beginning of work, stating:

1. Whether the contractor believes a permit is required for the proposed work.

2. Who will be responsible for obtaining any required permit.

3. Whether permit and inspection costs are included in the contract price.

4. A brief notice that failure to obtain required permits may affect inspections, code compliance, insurance coverage, resale disclosures, or liability.

The petitioner indicates the purpose of this proposed regulation is to address uncertainty regarding permit responsibility, including by homeowners, contractors, and others involved in residential project coordination. The petitioner indicates there have been repeated situations encountered over time across different residential projects and jurisdictions in Virginia involving misunderstandings about permit responsibility. The petitioner's understanding, based on conversations with building inspectors and building permit office staff in multiple jurisdictions, is that misunderstandings about permit responsibility can become complicated and stressful.

The petitioner contends that the current regulation may unintentionally place contractors who discuss permit requirements at a competitive disadvantage. One contractor may explain that a permit is required and include permit costs in a proposal, while another minimizes the issue or assumes permits will not be obtained. A simple disclosure could help "level the playing field" by ensuring that permit responsibility is addressed at the contract stage for all licensed contractors. The petitioner also contends that misunderstandings about permit responsibility can create unnecessary stress for multiple parties when the misunderstandings occur. Homeowners may discover permit issues only after work is completed, contractors may face disputes or complaints about work that was assumed to be routine, and building permit office staff and building inspectors are often placed in the difficult position of explaining requirements after the fact. The petitioner further contends that, while these situations may not arise in most projects, they can be particularly complicated and stressful for those involved when they do occur. A brief written disclosure at the beginning of a project could help prevent many of these misunderstandings.

The petitioner indicates that this request does not require the board to determine when permits are required. The petitioner provides some suggested language for a disclosure provision.

A copy of the petition is available from the agency.

Agency Decision: Request denied.

Statement of Reason for Decision: On June 23, 2026, the Board for Contractors reviewed the petition for rulemaking and public comments received. The board thanks the petitioner for making this thoughtful request to the board. After considering the petition and public comment, the board elected to refer the issue of requiring written disclosure in residential contracting contracts regarding permit responsibility to the board's standing committee for further review and consideration of a potential regulation.

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, fax (804) 527-4403 or email joseph.haughwout@dpor.virginia.gov.

VA.R. Doc. No. PFR26-35; Filed April 7, 2026, 8:13 a.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider amending **24VAC35-60, Ignition Interlock Program Regulations**. The purpose of the proposed action is to update the statewide ignition interlock program and align regulatory requirements with current statutory authority and operational practices to enhance public safety, strengthen oversight of ignition interlock service providers and facilities, and ensure reliable delivery of ignition interlock services throughout the Commonwealth. Proposed amendments align regulatory language with current statutory provisions and commission practices, address evolving technology and service delivery methods, and ensure continued compliance with public safety objectives associated with court-ordered and administratively required ignition interlock usage.

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

Statutory Authority: §§ 18.2-273.2, 18.2-273.3, and 18.2-273.9 of the Code of Virginia.

Public Comment Deadline: August 26, 2026.

Agency Contact: Rosario Carrasquillo, Special Programs Design Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, fax (804) 786-6286, or email rosario.carrasquillo@vasap.virginia.gov.

VA.R. Doc. No. R26-8609; Filed July 2, 2026, 8:13 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider amending **24VAC35-70, Remote Alcohol Monitoring Device Regulations**. The purpose of the proposed action is to modernize and strengthen the Virginia statewide remote alcohol monitoring program and align requirements with current operational practices, technology, and commission oversight responsibilities. The proposed regulatory action is intended to enhance public safety, improve accountability and reliability in offender alcohol monitoring, strengthen oversight of remote alcohol monitoring manufacturers and service providers, and ensure consistent statewide administration of court-ordered alcohol monitoring services. The amendments further update technical standards, reporting requirements, confidentiality protections, and certification procedures.

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

Statutory Authority: §§ 18.2-273.2, 18.2-273.3, and 18.2-273.9 of the Code of Virginia.

Public Comment Deadline: August 26, 2026.

Agency Contact: Christopher Morris, Special Programs Coordinator, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, fax (804) 786-6286, or email chris.morris@vasap.virginia.gov.

VA.R. Doc. No. R26-8610; Filed July 2, 2026, 8:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider amending **24VAC35-80, Alcohol Safety Action Program Regulation**. The purpose of the proposed action is to implement the provisions of Chapters 686 and 687 of the 2026 Acts of Assembly. The proposed regulatory action updates existing regulations to align with the newly created Article 2.1 (§ 18.2-273.1 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, conforming the existing regulation to the revised statutory framework. The proposed amendments clarify program definitions and organizational structures; establish and define the role of fiscal agent localities; update local policy board governance and accountability requirements; strengthen financial management, reserve fund, audit, and reporting standards; establish procedures governing local government funding obligations and supplemental funding requests; and clarify certification, employee conduct, privacy, and conflict-of-interest requirements. These amendments are intended to ensure statewide consistency, strengthen oversight and fiscal accountability, improve continuity of services, and support the efficient administration of court-ordered alcohol safety and rehabilitation programs.

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

Statutory Authority: §§ 18.2-273.2 and 18.2-273.3 of the Code of Virginia.

Public Comment Deadline: August 26, 2026.

Agency Contact: Christopher Morris, Special Programs Coordinator, Commission on the Virginia Alcohol Safety Action Program,1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email chris.morris@vasap.virginia.gov.

VA.R. Doc. No. R26-8591; Filed July 2, 2026, 8:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider promulgating **24VAC35-90, Intelligent Speed Assistance Program**

Regulation. The purpose of the proposed action is to, as mandated by § 46.2-507 of the Code of Virginia, promulgate a regulation to establish a statewide framework governing the administration and operation of the Virginia Intelligent Speed Assistance Program (ISAP). The proposed regulation establishes standards governing intelligent speed assistance device approval, service provider certification, offender participation, installation and maintenance procedures, monitoring and reporting requirements, and program oversight to address dangerous speeding behavior and improve highway safety outcomes. The proposed uniform statewide standards are intended to ensure that intelligent speed assistance services remain reliable, accessible, and technologically effective while maintaining appropriate safeguards related to public safety, offender privacy, service quality, and accountability.

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

Statutory Authority: §§ 18.2-273.2, 18.2-273.3, and 46.2-507 of the Code of Virginia.

Public Comment Deadline: August 26, 2026.

Agency Contact: Rosario Carrasquillo, Special Programs Design Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street Suite 801, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rosario.carrasquillo@vasap.virginia.gov.

VA.R. Doc. No. R26-8744; Filed July 2, 2026, 8:13 a.m.

REGULATIONS

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

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

TITLE 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

REGISTRAR'S NOTICE: The Commissioner of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 13 of the Code of Virginia, which excludes regulations promulgated pursuant to § 3.2-5121 of the Code of Virginia that conform, insofar as practicable, with those promulgated under the federal Food, Drug and Cosmetic Act (21 USC § 301 et seq.). The Department of Agriculture and Consumer Services will receive and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **2VAC5-600. Regulations Pertaining to Food for Human Consumption (amending 2VAC5-600-10).**

Statutory Authority: §§ 3.2-5101 and 3.2-5121 of the Code of Virginia.

Effective Date: July 2, 2026.

Agency Contact: Pamela Miles, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, TDD (800) 828-1120, or email pamela.miles@vdacs.virginia.gov.

Background: Regulations Pertaining to Food for Human Consumption (2VAC5-600) adopts by reference specific parts of Title 21 and Title 40 of the Code of Federal Regulations (CFR) that are promulgated by the U.S. Food and Drug Administration (FDA).

Summary:

The amendments (i) update the revision date of the referenced CFR to April 1, 2025, and (ii) remove the standard of identity for fruit pies (21 CFR Part 152), which FDA deems obsolete.

2VAC5-600-10. Adoption by reference.

A. Regulations from Title 21, Chapter 1, Subchapter A, Code of Federal Regulations. The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 21, Subchapter A of the Code of Federal Regulations (Rev. April 1, ~~2019~~ 2025) as regulations applicable in the enforcement of the Virginia Food Act by reference:

Part 73, Listing of color additives exempt from certification, Subpart A - Foods.

Part 74, Listing of color additives subject to certification, Subpart A - Foods.

Part 81, General specifications and general restrictions for provisional color additives for use in foods, drugs and cosmetics.

Part 82, Listing of certified provisionally listed colors and specifications, Subpart B—Foods, Drugs and Cosmetics.

B. Regulations from Title 21, Chapter 1, Subchapter B, Code of Federal Regulations. The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 21, Subchapter B of the Code of Federal Regulations (Rev. April 1, ~~2019~~ 2025) as regulations applicable in the enforcement of the Virginia Food Act by reference:

Part 100, General.

Part 101, Food labeling.

Part 102, Common or usual name for nonstandardized foods.

Part 104, Nutritional quality guidelines for foods.

Part 105, Foods for special dietary use.

Part 109, Unavoidable contaminants in food for human consumption and food-packaging material.

Part 111, Current good manufacturing practice in manufacturing, packaging, labeling, or holding operations for dietary supplements.

Part 113, Thermally processed low-acid foods packaged in hermetically sealed containers.

Part 114, Acidified foods.

Part 117, Current good manufacturing practice, hazard analysis, and risk-based preventive controls for human food.

Part 120, Hazard analysis and critical control point (HACCP) systems.

Part 123, Fish and fishery products.

Part 129, Processing and bottling of bottled drinking water.

Part 133, Cheeses and related cheese products.

Part 136, Bakery products.

Part 137, Cereal flours and related products.

Part 139, Macaroni and noodle products.

Part 145, Canned fruits.

Part 146, Canned fruit juices.

Part 150, Fruit butters, jellies, preserves, and related products.

~~Part 152, Fruit pies.~~

Part 155, Canned vegetables.

Part 156, Vegetable juices.

Part 158, Frozen vegetables.

Part 160, Eggs and egg products.

Part 161, Fish and shellfish.

Part 163, Cacao products.

Part 164, Tree nut and peanut products.

Part 165, Beverages.

Part 166, Margarine.

Part 168, Sweeteners and table sirups.

Part 169, Food dressings and flavorings.

§ 170.19, Pesticide chemicals in processed foods.

Part 172, Food additives permitted for direct addition to food for human consumption.

Part 173, Secondary direct food additives permitted in food for human consumption.

Part 174, Indirect food additives: General.

Part 175, Indirect food additives: Adhesives and components of coatings.

Part 176, Indirect food additives: Paper and paperboard components.

Part 177, Indirect food additives: Polymers.

Part 178, Indirect food additives: Adjuvants, production aids, and sanitizers.

Part 179, Irradiation in the production, processing and handling of food.

Part 180, Food additives permitted in food or in contact with food on an interim basis pending additional study, Subpart B—Specific requirements for certain food additives.

Part 181, Prior-sanctioned food ingredients.

Part 182, Substances generally recognized as safe.

Part 184, Direct food substances affirmed as generally recognized as safe.

Part 186, Indirect food substances affirmed as generally recognized as safe.

Part 189, Substances prohibited from use in human food.

C. Regulations from Title 21, Chapter 1, Subchapter L, Code of Federal Regulations. The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 21, Subchapter L of the Code of Federal Regulations (Rev. April 1, ~~2019~~ 2025) as regulations applicable in the enforcement of the Virginia Food Act by reference:

§ 1240.61, Mandatory pasteurization for all milk and milk products in final package form intended for direct human consumption.

D. Regulations from Title 40, Chapter 1, Subchapter E, Code of Federal Regulations. The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 40, Subchapter E of the Code of Federal Regulations (Rev. April 1, ~~2019~~ 2025) as regulations applicable to the enforcement of the Virginia Food Act by reference:

Part 180, Tolerances and exemptions for pesticide chemical residues in food.

VA.R. Doc. No. R26-8495; Filed July 2, 2026, 11:01 a.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF WILDLIFE RESOURCES

Proposed Regulation

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

Title of Regulation: **4VAC15-20. Definitions and Miscellaneous: In General (amending 4VAC15-20-50, 4VAC15-20-65, 4VAC15-20-130, 4VAC15-20-155).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) update the incorporation by reference of the Department of Wildlife Resources List of Native and Naturalized Fauna of Virginia and the Federal Endangered and Threatened Species List; (ii) adjust certain hunting, fishing, and trapping fees; (iii) add Roanoke Logperch as endangered and remove Emerald Shiner as state-threatened on the Virginia List of Endangered and Threatened Species; and (iv) establish a $10 fee for camping on Wildlife Management Areas and other department-owned or department-managed lands.

4VAC15-20-50. Definitions~~; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal," and "domestic animal"~~ of categories of "animal".

A. In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's ~~2024~~ 2026 "List of Native and Naturalized Fauna of Virginia," with copies available in the headquarters and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia that have established wild, self-sustaining populations, as included in the department's ~~2024~~ 2026 "List of Native and Naturalized Fauna of Virginia," with copies available in the headquarters and regional offices of the department.

"Nonnative (exotic) animal" means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals:

Domestic dog (Canis familiaris), including wolf hybrids.

Domestic cat (Felis catus), including hybrids with wild felines.

Domestic horse (Equus caballus), including hybrids with Equus asinus.

Domestic ass, burro, and donkey (Equus asinus).

Domestic cattle (Bos taurus and Bos indicus).

Domestic sheep (Ovis aries), including hybrids with wild sheep.

Domestic goat (Capra hircus).

Domestic swine (Sus scrofa), including pot-bellied pig and excluding any swine that are wild or for which no claim of ownership can be made.

Llama (Lama glama).

Alpaca (Lama pacos).

Camels (Camelus bactrianus and Camelus dromedarius).

Domesticated races of hamsters (Mesocricetus spp.).

Domesticated races of mink (Mustela vison) where adults are heavier than 1.15 kilograms or their coat color can be distinguished from wild mink.

Domesticated races of guinea pigs (Cavia porcellus).

Domesticated races of gerbils (Meriones unguiculatus).

Domesticated races of chinchillas (Chinchilla laniger).

Domesticated races of rats (Rattus norvegicus and Rattus rattus).

Domesticated races of mice (Mus musculus).

Domesticated breeds of European rabbit (Oryctolagus cuniculus) recognized by the American Rabbit Breeders Association, Inc. and any lineage resulting from crossbreeding recognized breeds. A list of recognized rabbit breeds is available on the department's website.

Domesticated races of chickens (Gallus).

Domesticated races of turkeys (Meleagris gallopavo).

Domesticated races of ducks and geese distinguishable morphologically from wild birds.

Feral pigeons (Columba domestica and Columba livia) and domesticated races of pigeons.

Domesticated races of guinea fowl (Numida meleagris).

Domesticated races of peafowl (Pavo cristatus).

Domesticated morphs of red cornsnake (Pantherophis guttatus) visibly distinguishable from native red cornsnakes based on their unique colors and patterns.

"Wild animal" means any member of the animal kingdom, except domestic animals, including any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate and any hybrid of these animals, except as otherwise specified in regulations of the board, or part, product, egg, or offspring of them, or the dead body or parts thereof.

B. Exception for red foxes and European rabbits. Domesticated red foxes (Vulpes vulpes) having coat colors distinguishable from wild red foxes and wild European rabbits possessed in captivity on July 1, 2017, may be maintained in captivity until the animal dies, but the animal may not be bred or sold without a permit from the department. Persons possessing domesticated red foxes or European rabbits without a permit from the department must declare such possession in writing to the department by January 1, 2018. This written declaration must include the number of individual animals in possession and date acquired, sex, estimated age, coloration, and a photograph of each fox or European rabbit. This written declaration (i) shall serve as a permit for possession only and (ii) is not transferable.

4VAC15-20-65. Hunting, trapping, and fishing license and permit fees.

In accordance with the authority of the board under subdivision 16 of § 29.1-103 of the Code of Virginia, the following fees are established for hunting, trapping, and fishing licenses and permits:

Virginia Resident Licenses to Hunt	
Type license	Fee
One-year Resident License to Hunt, for licensees 16 years of age or older	~~$22.00~~ $27
Two-year Resident License to Hunt, for licensees 16 years of age or older	~~$43.00~~ $53
Three-year Resident License to Hunt, for licensees 16 years of age or older	~~$64.00~~ $79
Four-year Resident License to Hunt, for licensees 16 years of age or older	~~$85.00~~ $105
Resident Three-Day Trip License to Hunt	~~$11.00~~ $16
County or City Resident License to Hunt in County or City of Residence Only, for licensees 16 years of age or older	~~$15.00~~ $20
Resident Senior Citizen Annual License to Hunt, for licensees 65 years of age or older	$8.00
Resident Junior License to Hunt, for licensees 12 through 15 years of age, optional for licensees younger than 12 years of age	$7.50
Resident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees younger than 16 years of age	$15.00
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Fish)	~~$99.00~~ $129
~~Resident Hunting License for Partially Disabled Veterans~~	~~$11.00~~
Resident Infant Lifetime License to Hunt	$130.00
Resident Junior Lifetime License to Hunt, for licensees younger than 12 years of age at the time of purchase	$260.00
Resident Lifetime License to Hunt, for licensees at the time of purchase:	
through 44 years of age	~~$265.00~~ $270
45 through 50 years of age	~~$215.00~~ $220
51 through 55 years of age	~~$165.00~~ $170
56 through 60 years of age	~~$115.00~~ $120
61 through 64 years of age	~~$65.00~~ $70
65 years of age and older	~~$25.00~~ $30
Totally and Permanently Disabled Resident Special Lifetime License to Hunt	$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt or Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	no fee
Service-Connected Partially (70% to less than 100%) Disabled Veterans Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	$50
Service-Connected Partially (50% to less than 70%) Disabled Veterans Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	$75
Service-Connected Partially (30% to less than 50%) Disabled Veterans Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	$100

Virginia Resident Licenses for Additional Hunting Privileges	
Type license or permit	Fee
Resident Deer and Turkey Hunting License, for licensees 16 years of age or older	~~$22.00~~ $27
Resident Junior Deer and Turkey Hunting License, for licensees younger than 16 years of age	$7.50
Resident Archery License to Hunt with archery equipment during archery hunting season	~~$17.00~~ $22

Resident Bear Hunting License	~~$20.00~~ $25
Resident Muzzleloading License to Hunt during muzzleloading hunting season	~~$17.00~~ $22
Resident Bonus Deer Permit	$17.00
Resident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)	$22.00
Resident Elk Hunt Lottery Application	~~$15.00~~ $20
Resident Special Elk Hunting License (not required outside of the Elk Management Zone and only awarded to individuals through a department elk license program)	$40.00

Virginia Nonresident Licenses to Hunt	
Type license	Fee
Nonresident License to Hunt, for licensees 16 years of age or older	~~$110.00~~ $135
Nonresident Three-Day Trip License to Hunt	~~$59.00~~ $74
Nonresident Youth License to Hunt, for licensees:	
younger than 12 years of age	$12.00
12 through 15 years of age	$15.00
Nonresident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees younger than 16 years of age	$30.00
Nonresident Annual Hunting License for Partially (70%) Disabled Veterans	~~$55.00~~ $67.50
Nonresident Annual Hunting License for Totally and Permanently Disabled Veterans	~~$27.50~~ $33.75
Nonresident Infant Lifetime License to Hunt	$275.00
Nonresident Lifetime License to Hunt	~~$580.00~~ $630

Virginia Nonresident Licenses for Additional Hunting Privileges	
Type license or permit	Fee
Nonresident Deer and Turkey Hunting License, for licensees:	
16 years of age or older	~~$85.00~~ $135
12 through 15 years of age	$15.00
younger than 12 years of age	$12.00
Nonresident Bear Hunting License	~~$150.00~~ $175
Nonresident Archery License to Hunt with archery equipment during archery hunting season	~~$30.00~~ $45
Nonresident Muzzleloading License to Hunt during muzzleloading hunting season	~~$30.00~~ $45
Nonresident Shooting Preserve License to Hunt within the boundaries of a licensed shooting preserve	~~$22.00~~ $27
Nonresident Bonus Deer Permit	$30.00
Nonresident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)	$110.00
Nonresident Elk Hunt Lottery Application	~~$20.00~~ $25
Nonresident Special Elk Hunting License (not required outside of the Elk Management Zone and only awarded to individuals through a department elk license program)	$400.00

Miscellaneous Licenses or Permits to Hunt	
Type license or permit	Fee
Waterfowl Hunting Stationary Blind in Public Waters License	~~$22.50~~ $27.50
Waterfowl Hunting Floating Blind in Public Waters License	~~$40.00~~ $45
Foxhound Training Preserve License	$17.00
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Fish)	~~$17.00~~ $22
Virginia Migratory Waterfowl Conservation Stamp	$14

Virginia Resident and Nonresident Licenses to Trap	
Type license	Fee
One-year Resident License to Trap, for licensees 16 years of age or older	~~$45.00~~ $50
Two-year Resident License to Trap, for licensees 16 years of age or older	~~$89.00~~ $99
Three-year Resident License to Trap, for licensees 16 years of age or older	~~$133.00~~ $148
Four-year Resident License to Trap, for licensees 16 years of age or older	~~$177.00~~ $197
County or City Resident License to Trap in County or City of Residence Only	~~$20.00~~ $25
Resident Junior License to Trap, for licensees younger than 16 years of age	$10.00
Resident Senior Citizen License to Trap, for licensees 65 years of age or older	$8.00
Resident Senior Citizen Lifetime License to Trap, for licensees 65 years of age or older	~~$25.00~~ $30
Totally and Permanently Disabled Resident Special Lifetime License to Trap	$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Trap	$15.00
Nonresident License to Trap	~~$205.00~~ $255

Virginia Resident Licenses to Fish	
Type license	Fee
One-year Resident License to Freshwater Fish	~~$22.00~~ $27
Two-year Resident License to Freshwater Fish	~~$43.00~~ $53
Three-year Resident License to Freshwater Fish	~~$64.00~~ $79
Four-year Resident License to Freshwater Fish	~~$85.00~~ $105
County or City Resident License to Freshwater Fish in County or City of Residence Only	~~$15.00~~ $20
Resident License to Freshwater Fish, for licensees 65 years of age or older	$8.00
Resident License to Fish in Designated Stocked Trout Waters	~~$22.00~~ $27
Resident License to Freshwater and Saltwater Fish	~~$38.50~~ $43.50
Resident License to Freshwater Fish for Five Consecutive Days	~~$13.00~~ $18
Resident License to Freshwater and Saltwater Fish for Five Consecutive Days	~~$23.00~~ $28
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Hunt)	~~$99.00~~ $129
~~Resident Fishing License for Partially Disabled Veterans~~	~~$11.00~~
Resident Infant Lifetime License to Fish	$130.00
Resident Special Lifetime License to Freshwater Fish, for licensees at the time of purchase:	
through 44 years of age	~~$265.00~~ $270
45 through 50 years of age	~~$215.00~~ $220
51 through 55 years of age	~~$165.00~~ $170
56 through 60 years of age	~~$115.00~~ $120
61 through 64 years of age	~~$65.00~~ $70
65 years of age and older	~~$25.00~~ $30
Resident Special Lifetime License to Fish in Designated Stocked Trout Waters, for licensees at the time of purchase:	
through 44 years of age	~~$265.00~~ $270
45 through 50 years of age	~~$215.00~~ $220
51 through 55 years of age	~~$165.00~~ $170
56 through 60 years of age	~~$115.00~~ $120

61 through 64 years of age	~~$65.00~~ $70
65 years of age and older	~~$25.00~~ $30
Totally and Permanently Disabled Resident Special Lifetime License to Freshwater Fish	$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	no fee
Service-Connected Partially (70% to less than 100%) Disabled Veterans Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	$50
Service-Connected Partially (50% to less than 70%) Disabled Veterans Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	$75
Service-Connected Partially (30% to less than 50%) Disabled Veterans Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	$100

Virginia Nonresident Licenses to Fish	
Type license	Fee
Nonresident License to Freshwater Fish	~~$46.00~~ $71
Nonresident License to Freshwater Fish in Designated Stocked Trout Waters	~~$22.00~~ $47
Nonresident License to Freshwater and Saltwater Fish	~~$70.00~~ $95
Nonresident Fishing License for Partially (70%) Disabled Veterans	~~$23.00~~ $35.50
Nonresident Annual Fishing License for Totally and Permanently Disabled Veterans	~~$11.50~~ $17.75
Nonresident License to Freshwater Fish for One Day	~~$7.00~~ $19
Nonresident License to Freshwater Fish for Five Consecutive Days	~~$20.00~~ $35
Nonresident License to Freshwater and Saltwater Fish for Five Consecutive Days	~~$30.00~~ $45
Nonresident Infant Lifetime License to Fish	$275.00
Nonresident Special Lifetime License to Freshwater Fish	~~$580.00~~ $630
Nonresident Special Lifetime License to in Fish in Designated Stocked Trout Waters	$580.00

Miscellaneous Licenses or Permits to Fish	
Type license or permit	Fee
Permit to Fish for One Day at Board-Designated Stocked Trout Fishing Areas with Daily Use Fees	~~$7.00~~ $12
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Hunt)	~~q~~
Special Guest Fishing License	$60.00

4VAC15-20-130. Endangered and threatened species; adoption of federal list; additional species enumerated.

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 USC §§ 1531 through 1543), as amended as of ~~October 10, 2024~~ April 6, 2026, and declares all listed species ~~listed thereon~~ to be endangered or threatened species in the Commonwealth. Pursuant to subdivision 12 of § 29.1-103 of the Code of Virginia, the director is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List in accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

B. In addition to the provisions of subsection A of this section, the following species are declared endangered or threatened in the Commonwealth and are afforded the protection provided by Article 6 (§ 29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia:

1. Fish:	
Endangered:	
Dace, Clinch	Chrosomus sp. cf. saylori
Dace, Tennessee	Phoxinus tennesseensis
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Logperch, Roanoke	Percina rex
Sunfish, blackbanded	Enneacanthus chaetodon
Threatened:	
Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti

Darter, greenfin	Etheostoma chlorobranchium
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti
Paddlefish	Polyodon spathula
~~Shiner, emerald~~	~~Notropis atherinoides~~
Editor's Note: Rows Shiner, steelcolor through Xystodesmid, Laurel Creek of 4VAC15-20-130 B are not amended; therefore, the text of those rows is not set out.	

EDITOR'S NOTE: Subsections C, D, and E of 4VAC15-20-130 are not amended; therefore, the text of those subsections is not set out.

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

A. Authorization. It shall be unlawful to camp at any time without purchasing a $10 camping authorization.

B. Camping periods. Unless otherwise posted or authorized, it shall be unlawful to camp for more than 14 consecutive nights, or more than 14 nights in a 28-day period on department-owned or controlled lands.

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

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

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

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

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

~~List of Native and Naturalized Fauna of Virginia, May 2024, Virginia Department of Wildlife Resources~~

List of Native and Naturalized Fauna of Virginia, May 2026, Virginia Department of Wildlife Resources

VA.R. Doc. No. R26-8702; Filed July 7, 2026, 4:30 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-50. Game: Bear (amending 4VAC15-50-120).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments change the opening day of the bear hound training season to the Monday nearest December 2 in certain counties.

4VAC15-50-120. Bear hound training season.

A. It shall be lawful to chase black bear with dogs, without capturing or taking, from August 1 through the last Saturday in September, both dates inclusive, in the Counties of Albemarle, Alleghany, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Carroll, Charlotte, Craig, Culpeper, Dickenson, Floyd, Franklin, Giles, Grayson (east of Route 16), Greene, Greensville, Highland, Lee, Lunenburg, Madison, Mecklenburg, Montgomery, Nelson, Page, Pulaski, Rappahannock, Roanoke (west of I-81), Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth (except for the part southeast of I-81 and west of State Route 16), Tazewell, Warren, Washington (northwest of I-81), Wise, and

Wythe and in the Cities of Chesapeake, Suffolk, and Virginia Beach.

B. It shall be lawful to chase black bear with dogs, without capturing or taking, from the Saturday prior to the third Monday in November and for 14 days following, both dates inclusive, in the Counties of Amelia, Brunswick, Campbell (east of the Norfolk Southern Railroad), Charles City, Cumberland, Dinwiddie, Essex, Gloucester, Greensville, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Middlesex, New Kent, Northumberland, Nottoway, Pittsylvania (east of the Norfolk Southern Railroad), Prince George, Richmond, Southampton, Surry, Sussex, Westmoreland, and York.

C. It shall be lawful to chase black bear with dogs, without capturing or taking, from the Saturday prior to the third Monday in November and for 12 days following, both dates inclusive, in the Counties of Appomattox and Buckingham.

D. It shall be lawful to chase black bear with dogs, without capturing or taking, from the Saturday prior to the third Monday in November and for eight days following, both dates inclusive, in the Counties of Charlotte, Halifax, Mecklenburg, and Prince Edward.

E. It shall be lawful to chase black bear with dogs, without capturing or taking, from the ~~first~~ Monday ~~of~~ nearest December 2 and for 19 days following, excluding Sundays, in the Counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Buckingham, Clarke, Culpeper, Fauquier, Frederick, Greene, Highland, Madison, Nelson, Page, Rappahannock, Rockbridge, Rockingham, Shenandoah, and Warren.

F. It shall be unlawful to use any firearm, bow, crossbow, or any weapon legally permissible for taking a black bear for the specific purpose of harvesting or killing a black bear while participating in the bear hound training season.

VA.R. Doc. No. R26-8705; Filed July 7, 2026, 4:30 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-90. Game: Deer (amending 4VAC15-90-294, 4VAC15-90-550).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) change the allowable date of release of a rehabilitated deer fawn to the January 15 following intake and (ii) allow the one special elk hunting license reserved for a conservation organization each license year to be for a period of up to five years.

4VAC15-90-294. Rehabilitation of cervids.

A. For the purposes of this section:

"Juvenile" means any cervid ~~less~~ younger than one year of age on December 31 of the current calendar year.

"Adult" means any cervid ~~greater~~ older than one year of age on December 31 of the current calendar year.

B. No person permitted by the department to rehabilitate cervids may rehabilitate or release adult cervids. Rehabilitators permitted by the department may transport and temporarily possess adult cervids solely for the purpose of immediate humane dispatch but must notify the department immediately after the deer has been dispatched.

C. Juvenile cervids requiring continued rehabilitation beyond ~~December 31~~ January 15 of the ~~current~~ subsequent calendar year shall not be transported, possessed, released, or rehabilitated without written authorization from the department.

D. Cervids that originate within an area designated by the department for disease management shall not be transported or possessed for the purposes of rehabilitation. If such a cervid is brought to a rehabilitator permitted by the department, the permittee shall hold the cervid in isolation and immediately notify the department.

E. Cervids from any county (including the cities and towns ~~therein~~ in the county) containing an area designated by the department for cervid disease management may be rehabilitated and released in the county of origin only if the cervid originated from a portion of the county outside the disease management area.

4VAC15-90-550. Special elk hunting license, Conservation License Program.

A. For the purposes of this section, the following words or terms shall have the following meanings, unless the context clearly indicates otherwise:

"Individual, cooperators, or wildlife conservation organizations" means those people or entities whose mission is to promote and ensure the conservation of Virginia's wildlife resources or to promote opportunities for hunting, fishing, trapping, boating, or other wildlife-related recreation within Virginia.

"Proceeds" means the amount of money received by the cooperator or organization from the transfer of a reserved special elk hunting license minus all expenses, including the fees associated with the license, and administrative costs directly attributable to the transfer of the permit or the implementation of the defined project.

B. Upon receipt of a valid Conservation License Program application from an officer or other designated official representative of any individual, cooperator, or wildlife conservation organization, the director or the director's designee shall verify the application materials and may select a program awardee ~~annually~~ for a period not to exceed five years.

C. The director shall establish a Conservation License Program Committee composed of a minimum of three individuals to review program applications and submit a recommendation to the director to reserve no more than one special elk hunting license per license year for a period not to exceed five years for a cooperator or organization whose application is deemed to provide the greatest benefit to elk conservation and elk-related recreation ~~in Virginia per license year. This committee shall be composed of a minimum of three individuals and make a recommendation to the director each year~~.

D. ~~A cooperator or organization receiving~~ The awardee will receive a reserved special elk hunting license each license year during the award period, subject to the provisions of subsection G of this section. The awardee must direct all proceeds from the transfer of such reservation~~,~~ toward ~~a project~~ projects to improve and enhance elk habitat, elk populations, or elk-related recreation within the Elk Management Zone.

E. In coordination with the department, a cooperator or organization may transfer the reserved special elk hunting license to any person eligible to hunt in Virginia. The generation of funds from the transfer of the reserved special elk hunting license may only be conducted through a raffle.

F. A special elk hunting license transferee may be rejected if it is determined that the transferee has a hunting license revocation at the time the transferee is drawn, has been convicted of one or more wildlife violations within five years prior to the last date of the application period, or has been convicted of one or more violations involving elk. In determining the transferee's eligibility, the department shall take into account the nature and severity of the violations.

G. The department reserves the right to terminate a multi-year award if the cooperator or organization violates the intent of the Conservation License Program or breaches any agreement made with the department pertaining to the Conservation License Program, or if the department alters special elk hunting license opportunities for elk management purposes.

H. Cooperators or organizations are eligible to apply for and be selected for the Conservation License Program, regardless of the number of times the cooperator or organization has applied or been selected in the past.

VA.R. Doc. No. R26-8706; Filed July 7, 2026, 4:31 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-25, 4VAC15-320-60).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) add size and bag limits for waters shared with Tennessee, specifically those pertaining to smallmouth bass, white bass, crappie, rock bass, trout, and catfish and (ii) add rock bass and flathead catfish to the list of fish that may not be stocked into private lakes and ponds.

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

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

Type of fish	Subtype or location	Creel and length limits	Geographic exceptions	Creel or length limits for exceptions
largemouth bass, smallmouth bass		5 per day in the aggregate (combined) No statewide length limits	Lakes	
			Briery Creek Lake	No largemouth or smallmouth bass 16 to 24 inches; only 1 largemouth or smallmouth bass per day in the aggregate longer than 24 inches
			Buggs Island (Kerr)	Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches
			Claytor Lake	No smallmouth bass less than 14 inches
			Flannagan Reservoir	No smallmouth bass less than 15 inches No largemouth bass less than 12 inches
			Lake Gaston	Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches
			Leesville Reservoir	Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches
			Lake Moomaw	No largemouth or smallmouth bass less than 12 inches
			Smith Mountain Lake and its tributaries below Niagara Dam	Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches
			<u>South Holston Reservoir</u>	<u>No smallmouth less than 15 inches</u>

			Rivers	
			Clinch River – within the boundaries of Scott, Wise, Russell, or Tazewell Counties	No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches
			Levisa Fork River – within the boundaries Buchanan County	No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches
			Dan River and tributaries downstream from the Union Street Dam, Danville	Only 2 of 5 largemouth or smallmouth bass less than 14 inches
			James River – Confluence of the Jackson and Cowpasture rivers (Botetourt County) downstream to the 14th Street Bridge in Richmond	No largemouth or smallmouth bass 14 to 22 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 22 inches
			New River – Fields Dam (Grayson County) downstream to the VA - WV state line and its tributaries Little River downstream from Little River Dam in Montgomery County, Big Walker Creek from the Norfolk Southern Railroad Bridge downstream to the New River, and Wolf Creek from the Narrows Dam downstream to the New River in Giles County (This does not include Claytor Lake, which is delineated as: The upper end of the island at Allisonia downstream to the dam)	No largemouth or smallmouth bass 14 to 22 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 22 inches

			North Fork Holston River - Rt. 91 bridge upstream of Saltville, VA downstream to the VA - TN state line	No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches
			Potomac River - Virginia tidal tributaries above Rt. 301 bridge	No largemouth or smallmouth bass less than 15 inches from March 1 through June 15
			Roanoke (Staunton) River - and its tributaries below Difficult Creek, Charlotte County	Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches
			Shenandoah River, South Fork Shenandoah River, North Fork Shenandoah River	No largemouth or smallmouth bass 11 to 14 inches
			Staunton River -	
			Leesville Dam (Campbell County) downstream to the mouth of Difficult Creek, Charlotte County	No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches
<ins>EDITOR'S NOTE:</ins> Rows Alabama bass through striped bass of 4VAC15-320-25 are not amended; therefore, the text of those rows is not set out.				
white bass		5 per day No statewide length limits	Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River and its tributaries to Leesville Dam and the Dan River and its tributaries to Union Street Dam (Danville)	10 per day; no white bass less than 14 inches
			Lake Gaston	10 per day; no white bass less than 14 inches
		<ins>No possession</ins>	<ins>South Holston Reservoir</ins>	
walleye, saugeye		5 per day in the aggregate No walleye or saugeye less than 18 inches	Claytor Lake and the New River upstream of Claytor Lake Dam to Fries Dam in Grayson County	2 walleye per day; no walleye 19 to 28 inches

sauger		2 per day No statewide length limits		
yellow perch		No statewide daily limit No statewide length limits	Lake Moomaw	10 per day
			Below the fall line in all coastal rivers of the Chesapeake Bay	No yellow perch less than 9 inches; no daily limit
chain pickerel and northern pike		5 per day No statewide length limits	Gaston and Buggs Island (Kerr) Reservoirs	No daily limit
muskellunge		1 per day No muskellunge less than 40 inches	New River - Claytor Dam downstream to the VA - WV state line	1 per day June 1 - last day of February: No muskellunge 40 to 48 inches March 1 - May 31: No muskellunge less than 48 inches
bluegill (bream) and other sunfish excluding crappie, rock bass (redeye) and Roanoke bass		50 per day in the aggregate No statewide length limits	Gaston and Buggs Island (Kerr) Reservoirs, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
crappie (black or white)		25 per day in the aggregate No statewide length limits	Lake Gaston and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit

			Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County	No crappie less than 9 inches
			Briery Creek and Sandy River Reservoirs	No crappie less than 9 inches
			Flannagan ~~and South Holston Reservoirs~~ Reservoir	No crappie less than 10 inches
			South Holston Reservoir	No crappie less than 10 inches, 15 per day
rock bass (redeye)		25 per day; in the aggregate with Roanoke bass No statewide length limits	Gaston and Buggs Island (Kerr) Reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
			Nottoway, Meherrin, Blackwater (Franklin County), Blackwater (Chowan Drainage), Falling, and Smith Rivers and their tributaries	5 per day in the aggregate with Roanoke bass; no rock bass less than 8 inches
			South Holston Reservoir	20 per day
Roanoke bass		25 per day in the aggregate with rock bass No statewide length limits	Nottoway, Meherrin, Blackwater (Franklin County), Blackwater (Chowan Drainage), Falling, and Smith Rivers and their tributaries	5 per day in the aggregate with rock bass; no Roanoke bass less than 8 inches
trout	See 4VAC15-330. Fish: Trout Fishing.			
			South Holston Reservoir	No minimum length limit; 7 per day, only 2 of which may be lake trout

catfish	channel, white, and flathead catfish	20 per day; No length limits	All rivers below the fall line	No daily limit
			South Holston Reservoir	20 per day, only 1 over 34 inches
	blue catfish	20 per day; No statewide length limits	Lake Gaston	No daily limit, except only 1 blue catfish per day longer than 32 inches
			Kerr Reservoir, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County	20 per day, except only 1 blue catfish per day longer than 32 inches
			James River and its tributaries below the fall line downstream to a line connecting Hog Point on Hog Island (Surry County) and the downstream point of the mouth of College Creek (James City County)	No daily limit, except only 1 blue catfish per day longer than 32 inches
			All rivers below the fall line other than the James River and its tributaries, Rappahannock River and its tributaries, and the York River and its tributaries	No daily limit
EDITOR'S NOTE: Rows hickory shad through nonnative (exotic) fish of 4VAC15-320-25 are not amended; therefore, the text of those rows is not set out.				

4VAC15-320-60. Approval required to stock fish into inland waters.

A. It shall be unlawful to stock any species of fish into any inland waters of the Commonwealth without first obtaining written approval to do so from the department. Nothing in this section shall be construed as restricting the use of native and naturalized species of fish in privately-owned ponds and lakes, except spotted bass, rock bass, flathead catfish, blue catfish, and their hybrids may not be stocked.

B. The Department of Wildlife Resources (department) shall issue a written stocking authorization within 15 business days of receipt of a completed Virginia Fish Stocking Authorization Form, unless the department determines that granting such authorization may (i) endanger any native or naturalized population of fish; (ii) introduce, enable, or enhance the spread of fish diseases, including parasites; or (iii) establish nonnative or exotic aquatic species where such species may displace, threaten, or endanger native or naturalized species. Where an exception to issuance exists, the application shall be denied.

C. The department shall set an expiration date for each stocking authorization issued, limit the authorization to a specific species of fish, and geographically limit the stocking authorization.

D. The department is authorized to modify or revoke any stocking authorization where the department discovers any situation listed in subsection B of this section to exist or where otherwise permitted by law or regulation.

VA.R. Doc. No. R26-8696; Filed July 7, 2026, 4:31 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-330. Fish: Trout Fishing (amending 4VAC15-330-150).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments remove Smith Creek in Alleghany County and add Grassy Creek and its tributaries within the boundaries of Breaks Interstate Park to the list of waters where anglers may only use artificial lures with single hooks when fishing for trout.

4VAC15-330-150. Special provision applicable to trout fishing using artificial lures with single hook.

It shall be lawful year-round to fish for trout using only artificial lures with single hooks within:

1. The Stewarts Creek Trout Management Area in Carroll County.

2. The Rapidan and Staunton Rivers and their tributaries upstream from a sign at the Lower Shenandoah National Park boundary in Madison County.

3. The Dan River and its tributaries between the Townes Dam and the Pinnacles Hydroelectric Project powerhouse in Patrick County.

4. The East Fork of Chestnut Creek (Farmers Creek) and its tributaries upstream from the Blue Ridge Parkway in Grayson and Carroll Counties.

5. Roaring Fork and its tributaries upstream from the southwest boundary of Beartown Wilderness Area in Tazewell County.

6. That section of the South Fork Holston River and its tributaries from the concrete dam at Buller Fish Culture Station downstream to the lower boundary of the Buller Fish Culture Station in Smyth County.

7. North Creek and its tributaries upstream from a sign at the George Washington National Forest North Creek Campground in Botetourt County.

8. Spring Run from its confluence with Cowpasture River upstream to a posted sign at the discharge for Coursey Springs Hatchery in Bath County.

9. Venrick Run and its tributaries within the Big Survey Wildlife Management Area and Town of Wytheville property in Wythe County.

10. Brumley Creek and its tributaries from the Hidden Valley Wildlife Management Area boundary upstream to the Hidden Valley Lake Dam in Washington County.

11. Stony Creek (Mountain Fork) and its tributaries within the Jefferson National Forest in Wise and Scott Counties from the outlet of High Knob Lake downstream to the confluence of Chimney Rock Fork and Stony Creek.

12. Little Stony Creek and its tributaries within the Jefferson National Forest in Scott County from the Falls of Little Stony Creek downstream to a posted sign at the Hanging Rock Recreation Area.

13. Little Tumbling Creek and its tributaries within the Clinch Mountain Wildlife Management Area in Smyth and Tazewell Counties downstream to the concrete bridge.

14. Big Tumbling Creek and its tributaries within the Clinch Mountain Wildlife Management Area in Russell, Smyth, and Washington Counties from a sign starting at the foot of the mountain and extending upstream seasonally from October 1 until five days prior to the first Saturday in April.

15. South River in the City of Waynesboro from the Wayne Avenue Bridge downstream 2.2 miles to the Second Street Bridge.

16. Wolf Creek and its tributaries within the Abingdon Muster Grounds in the Town of Abingdon from Colonial Road downstream to Stone Mill Road.

17. Beaver Creek and its tributaries within the boundaries of Sugar Hollow Park in the City of Bristol.

18. Green Cove Creek in Washington County from Route 859 downstream to its mouth.

19. Whitetop Laurel Creek in Washington County upstream from the mouth of Straight Branch to a sign posted at the Forest Service boundary just downstream of Taylor Valley, and in Whitetop Laurel Creek in Washington County upstream from the first railroad trestle above Taylor Valley to the mouth of Green Cove Creek at Creek Junction.

20. ~~Smith~~ Grassy Creek and its tributaries in ~~Alleghany~~ Dickenson County ~~from~~ within the ~~Clifton Forge Dam downstream to a sign at the Forest Service~~ boundary ~~above the C & O Dam~~ of Breaks Interstate Park.

21. Snake Creek in Carroll County below Hall Ford and that portion of Little Snake Creek below the junction of Routes 922 and 674, downstream to Route 58.

22. The North Fork Moormans River and its tributaries from the head of Sugar Hollow Reservoir upstream 0.3 miles to the Shenandoah National Park boundary.

All trout caught in these waters must be immediately returned to the water. No trout or bait may be in possession at any time in these areas.

VA.R. Doc. No. R26-8697; Filed July 7, 2026, 4:32 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-340. Fish: Seines and Nets (amending 4VAC15-340-60).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendment prohibits the use of seines, traps, and nets in Abrams Creek and its tributaries in Washington County to protect populations of Tennessee Dace, a state endangered species.

4VAC15-340-60. Seines, traps, and nets prohibited in certain areas.

A. It shall be unlawful to use seines and nets of any kind for the taking of fish from the public waters of the Roanoke (Staunton) and Dan Rivers in Campbell, Charlotte, Halifax, and Pittsylvania Counties and in the City of Danville; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked or the taking of fish from these waters pursuant to the provisions of 4VAC15-360. In addition, this section shall not be construed to prohibit the use of cast nets, also known as throw nets, for the taking of bait fish.

B. In Lick Creek and tributaries in Smyth and Bland Counties, in Bear Creek and in streams and their associated tributaries that flow into Hungry Mother Lake in Smyth County, in Laurel Creek and tributaries upstream of Highway 16 bridge in Tazewell and Bland Counties, in Susong Branch and Mumpower Creek in Washington County and the City of Bristol, in Abrams Creek and its tributaries in Washington County, and in Timbertree Branch in Scott County, it shall be unlawful to use seines, nets, or traps; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked.

VA.R. Doc. No. R26-8703; Filed July 7, 2026, 4:32 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, Etc. (amending 4VAC15-350-60).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) add provisions relating to the use of juglines, limblines, and trotlines in the South Holston Reservoir and (ii) remove reference to the taking of snapping turtles by jugline, limbline, trotline, or set poles.

4VAC15-350-60. Trotlines, juglines, limblines, or set poles.

A. Generally. Except as otherwise provided by local legislation and by subsections B and C of this section, and except on waters stocked with trout and within 600 feet of any dam, it shall be lawful to use trotlines, juglines (single hook, including one treble hook, and line attached to a float), limblines, or set poles for the purpose of taking nongame fish (daily creel (possession) and length limits for nongame fish are found in 4VAC15-320-25) ~~and snapping turtles (limits for snapping turtles are found in 4VAC15-360-10)~~, provided that no live bait is used. Notwithstanding the provisions of this section, live bait other than game fish may be used on trotlines to take catfish in the Clinch River in the Counties of Russell, Scott, and Wise. Any person setting or in possession of a trotline, jugline, limbline, or set pole shall have it clearly marked by permanent means with his name, address, and telephone number, and is required to check all lines at least once each day, remove all fish and animals caught, and completely remove all lines from the water, shoreline, and tree limbs when not in use. This requirement shall not apply to landowners on private ponds, nor to a bona fide tenant or lessee on private ponds within the bounds of land rented or leased, nor to anyone transporting any such device from its place of purchase.

B. Quantico Marine Reservation. It shall be unlawful to fish with trotlines in any waters within the confines of Quantico Marine Reservation.

C. Additional jugline requirements. Jugline sets (except as exempt under subsection A of this section) shall be restricted to 20 per angler and must be attended (within sight) by anglers at all times. Also, in addition to being labeled with the angler's name, address, and telephone number, jugs shall also be labeled with a reflective marker that encircles the jugs to allow for visibility at night.

D. South Holston Reservoir. On South Holston Reservoir, the number of jugline sets shall be restricted to 50 per angler, and the number of limbline sets shall be restricted to 15 per angler. Additionally, trotline sets on South Holston Reservoir shall be restricted to 100 hooks per angler. All other requirements in subsection A of this section shall apply.

VA.R. Doc. No. R26-8698; Filed July 7, 2026, 4:33 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-360. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (amending 4VAC15-360-10).**

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

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) add madtoms to the definition of fish bait, (ii) limit the number of madtoms permitted to be taken as fish bait to 20, (iii) restrict the use of madtoms for fish bait to the waters from which the madtom was taken, (iv) remove white sucker and northern hogsucker from the list of species that may be taken in unlimited numbers, and (v) update the genus name for minnows and chubs.

4VAC15-360-10. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use.

A. Possession limits. Except as otherwise provided for in § 29.1-418 of the Code of Virginia, 4VAC15-20-130, 4VAC15-320-40, and this chapter, it shall be lawful to capture and possess live for private use and not for sale or export no more than one individual of any native or naturalized, as defined in 4VAC15-20-50, species of amphibian or reptile per physical address, and 20 individuals of any single native or naturalized, as defined in 4VAC15-20-50, species of aquatic invertebrate and nongame fish unless specifically listed in this subsection:

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, mullet, ~~white sucker, northern hogsucker,~~ gizzard shad, threadfin shad, blueback herring (see 4VAC15-320-25 for anadromous blueback herring limits), white perch, yellow perch, alewife (see 4VAC15-320-25 for anadromous alewife limits), stoneroller (hornyhead), fathead minnow, golden shiner, goldfish, and Asian clams. Grass carp may only be harvested in unlimited numbers from public inland rivers and streams of the Commonwealth. It is unlawful to harvest grass carp from any public inland lake and reservoir. Anglers taking grass carp must ensure that all harvested grass carp are dead.

2. See 4VAC15-320-25 for American shad, hickory shad, channel catfish, white catfish, flathead catfish, and blue catfish limits.

3. For the purpose of this chapter, "fish bait" shall be defined as native or naturalized species of minnows and chubs ~~(Cyprinidae)~~ (Leuciscidae), madtoms, crayfish, and hellgrammites. The possession limit for taking "fish bait" shall be 50 individuals in aggregate, of which no more than 20 individuals may be crayfish, and of which no more than 20 individuals may be madtoms, unless the person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders, madtoms, and crayfish, which cannot be sold pursuant to the provisions of 4VAC15-360-60 and 4VAC15-360-70. However, stonerollers (hornyheads), fathead minnows, golden shiners, and goldfish may be taken and possessed in unlimited numbers as provided for in subdivision 1 of this subsection.

4. Any crayfish or madtom collected for use as fish bait may only be used as fish bait in the water body of capture.

5. The daily limit for bullfrogs shall be 15 and for snapping turtles shall be five. Snapping turtles shall only be taken from June 1 to September 30 and must have a minimum curved-line carapace length of 13 inches. Bullfrogs and snapping turtles may not be taken from the banks or waters of designated stocked trout waters.

6. The following species may not be taken or possessed in any number for private use: red-eared slider and all reptile and amphibian Species of Greatest Conservation Need designated in Virginia's 2015 Wildlife Action Plan.

7. Native amphibians and reptiles, as defined in 4VAC15-20-50, that are captured within the Commonwealth and possessed live for private use and not for sale may be liberated under the following conditions:

a. Period of captivity does not exceed 30 days;

b. Animals must be liberated at the site of capture;

c. Animals must have been housed separately from other wild-caught and domestic animals; and

d. Animals that demonstrate symptoms of disease or illness or that have sustained injury during their captivity may not be released.

8. Native or naturalized amphibians and reptiles, as defined in 4VAC15-20-50, may not be taken or possessed in any number from state or federal land without an appropriate permit or license.

B. Methods of taking species in subsection A of this section. Except as otherwise provided for in the Code of Virginia, 4VAC15-20-130, 4VAC15-320-40, and other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A of this section may only be taken (i) by hand, hook, and line; (ii) with a seine not exceeding four feet in depth by 10 feet in length; (iii) with an umbrella type net not exceeding five by five feet square; (iv) by small minnow traps with throat openings no larger than one inch in diameter; (v) with cast nets; and (vi) with hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet. Such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of § 29.1-416 of the Code of Virginia. Gizzard shad and white perch may also be taken from below the fall line in all tidal rivers of the Chesapeake Bay using a gill net in accordance with Virginia Marine Resources Commission recreational fishing regulations. Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire. Snapping turtles may be taken for personal use with hoop nets not exceeding six feet in length with a throat opening not exceeding 36 inches.

C. Areas restricted from taking mollusks. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take the spiny riversnail (Io fluvialis) in the Tennessee drainage in Virginia (Clinch, Powell, and the North, South, and Middle Forks of the Holston Rivers and tributaries). It shall be unlawful to take mussels from any inland waters of the Commonwealth.

D. Areas restricted from taking crustaceans. Except for the permitted collection of specimens as provided for in § 29.1-418 of the Code of Virginia or the permitted taking for zoological, educational, or scientific purposes as provided for in § 29.1-568 of the Code of Virginia, it shall be unlawful to take any species of crayfish in the Big Sandy River Basin in Virginia (Russell Fork, Pound River, Cranes Nest River, McClure River, Levisa Fork, Dismal Creek, Knox Creek, and tributaries).

E. Reduction of possession limits for native and naturalized amphibians and reptiles. Any person in possession of legally obtained native and naturalized amphibians and reptiles, as defined in 4VAC15-20-50, prior to the change in personal possession allowances in subsection A of this section, effective July 1, 2021, must declare such possession to the department by January 1, 2022, in a manner prescribed by the department. This declaration shall serve as authorization for possession only and is not transferable.

VA.R. Doc. No. R26-8704; Filed July 7, 2026, 4:33 p.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: **4VAC15-370. Watercraft: In General (amending 4VAC15-370-50, 4VAC15-370-51).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) incorporate by reference the U.S. Aids to Navigation System (33 CFR Part 62 March 17, 2025, update); (ii) require regulatory markers to be installed and maintained according to the terms of application, authorization, or Department of Wildlife Resources requirements; and (iii) clarify the rules and application procedures for regulatory markers that individuals place under local ordinance.

4VAC15-370-50. Regulatory markers and aids to navigation.

A. Under the provisions of Chapter 7 of Title 29.1 of the Code of Virginia and the U.S. Aids to Navigation System established by 33 CFR Part 62 (March 17, 2025, update), a system of regulatory markers and a lateral buoyage marking system of aids to navigation are hereby adopted on all public waters of the Commonwealth not marked by an agency of the United States. Regulatory markers will be white with international orange bands. A vertical open-faced diamond shape with a white center shall denote danger. A vertical open-faced diamond shape with an inside cross shall denote a prohibition of all vessels. A circular shape with a white center shall denote a control or restriction. A rectangular shape shall denote information other than a danger, control or restriction. No regulatory marker, aid to navigation or other waterway marker affecting the safety, health or well-being of a boat operator, excepting those placed by an agency of the United States or a political subdivision of this Commonwealth as authorized in § 29.1-744 D of the Code of Virginia, shall be placed in, on or near the water unless authorized by the department.

B. ~~When buoys are used as~~ The design, construction, and color of regulatory markers~~, they~~ shall be ~~white with horizontal bands of international orange, having a minimum width of two inches, placed completely around the buoy circumference. One band shall be at the top of the buoy, with a second band placed~~

~~just above the waterline~~ uniform so that ~~both bands are clearly visible to approaching watercraft~~ all vessel operators may readily recognize, identify, and distinguish authorized regulatory markers. ~~The area of the buoy body visible between the two bands~~ These specifications shall be ~~white and not less than 12 inches in height. No buoy~~ prescribed in department requirements and shall be ~~less than 24 inches~~ in ~~overall height from the waterline~~ accordance with the U.S. Aids to Navigation System established by 33 CFR Part 62 (March 17, 2025, update).

~~C. Where a regulatory marker consists of a sign displayed from a marine structure, post or piling, the sign shall be white, with an international orange border having a minimum width of three inches. The geometric shape associated with the meaning of the marker shall be centered on the signboard.~~

~~D. The size of the display area shall be as required by circumstances, except that no display area shall be smaller than one foot in height. The outside width of the diamond, the inner diameter of the circle, and the average of the inside and outside widths of a square shall be two-thirds of the display area. The side of the diamond shall slope at a 35° angle from the vertical on the plane surface. Approximate adjustments for curvature may be made when applied to a cylindrical surface.~~

~~E. Explanatory words may be added outside the diamond with a center cross, the open diamond and the no wake circle on fixed markers only, and shall be added to the inside of the circle, square and rectangle. The letters of such words shall be black, in block characters of good proportion, spaced in a manner that will provide maximum legibility, and of a size that will provide the necessary degree of visibility. Applicable words include, but are not limited to:~~

~~1. Open faced diamond: rock, snag, cable, dam, dredge, shoal, reef, wreck.~~

~~2. Diamond with cross: dam, swim area, rapids, no boats.~~

~~3. Circle: no skiing, no wake, no anchoring, no fishing, no scuba, no boats, ski only, fishing only, for wording inside the circle; and entering no wake zone, leaving no wake zone, for wording outside the circle.~~

~~4. Square or rectangle: information other than a danger, control or restriction, which may contribute to health, safety, or well-being of boaters, such as place names, arrows indicating availability of gas, oil, groceries, marine repairs, limits of controlled areas, or approaching controlled area.~~

~~F. Waterway markers shall be made of materials that will retain the characteristics essential to their basic significance, such as color, shape, legibility and position, despite weather or other exposures.~~

~~G.~~ C. Regulatory markers shall be placed where they are reasonably visible from boats approaching the marker and the visibility of the marker shall be maintained in accordance with agency requirements or authorization.

~~H. Written approval of the department must be obtained before relocation of any marker.~~

~~I. The person responsible for the marker shall immediately notify the department when any approved marker is removed or destroyed. Such marker shall be replaced without unnecessary delay.~~

~~J. After notification to the person responsible for the marker, the department may cancel for reasonable cause any marker authorization. Such marker shall be removed by the person responsible for the marker without unnecessary delay. Should the marker not be removed within a reasonable amount of time, the department may remove the marker or have it removed at the expense of the person responsible for the marker.~~

~~K. The political subdivision or agency making application shall certify that the markers to be installed conform to the above provisions.~~

~~L.~~ D. Applications for waterway markers to be authorized by the department under § 29.1-734 or 29.1-744 E of the Code of Virginia shall be submitted in a manner determined by the department and shall include (i) the specific purpose of control area, danger, or hazard to navigation or public swim area; (ii) the specific location of the regulated area; and (iii) reference to local ordinance authorizing a control area.

1. Authorized waterway markers must be placed in accordance with all department conditions.

2. Written approval of the department must be obtained before relocation of any marker.

3. The person responsible for the marker shall immediately notify the department when any approved marker is removed or destroyed. The marker shall be replaced without unnecessary delay.

4. After notification to the person responsible for the marker, the department may cancel for reasonable cause any marker authorization. The marker shall be removed by the person responsible for the marker without unnecessary delay. If the marker is not removed within a reasonable amount of time, the department may remove the marker or have it removed at the expense of the person responsible for the marker.

5. The political subdivision or agency making application shall certify that the markers to be installed conform to the provisions in this subsection.

E. It shall be unlawful to enter, use, or occupy public waters for a purpose contrary to the use indicated on markers authorized by the department~~,~~ or placed by an agency of the Unites States or a political subdivision of ~~this~~ the Commonwealth.

~~M.~~ F. It shall be unlawful to moor or attach a vessel to a marker other than an approved mooring buoy~~,~~ or to move, remove, displace, tamper with, damage, or destroy a marker authorized by the department, placed by an agency of the United States, or placed by a political subdivision of ~~this~~ the Commonwealth.

4VAC15-370-51. Regulatory markers and aids to navigation maintenance.

The person responsible for a regulatory marker or aid to navigation shall maintain ~~such~~ the marker or aid to ensure visibility, readability, and proper placement of the marker or aid to navigation in accordance with department requirements or authorization for markers placed under 4VAC15-370-50. The department may remove, have removed, or require removal of any marker not maintained or repaired. All costs of removal shall be borne by the person responsible for the marker.

VA.R. Doc. No. R26-8701; Filed July 7, 2026, 4:34 p.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: **4VAC15-380. Watercraft: Motorboat Numbering (amending 4VAC15-380-120).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments (i) increase motorboat registration fees by $5.00 and (ii) assign a fee of $15 for a temporary motorboat registration certificate.

4VAC15-380-120. Certificate of registration and titling fees.

A. The following fees shall be paid by applicants for certificates of registration:

Temporary registration certificate	$15
For a motorboat under 16 feet	~~$32~~ $37
For a motorboat 16 feet to less than 20 feet	~~$36~~ $41
For a motorboat 20 feet to less than 40 feet	~~$42~~ $47
For a motorboat 40 feet and over	~~$50~~ $55
For first 10 actively registered motorboats by the same owner	~~$32~~ $37
For more than 10 actively registered motorboats by the same owner	~~$26~~ $31
For a duplicate certificate of registration or decal	~~$14~~ $19

B. The following fees shall be paid by applicants for certificates of title:

Titling fee	~~$10~~ $15
Duplicate title	~~$7~~ $12
Change of motor on title	~~$7~~ $12
Record supplemental lien on previously titled watercraft	~~$10~~ $15

VA.R. Doc. No. R26-8707; Filed July 7, 2026, 4:34 p.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: **4VAC15-390. Watercraft: Safe and Reasonable Operation of Vessels (amending 4VAC15-390-10).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments incorporate by reference the July 1, 2024, version of U.S. Coast Guard navigation regulations published at 33 CFR Parts 83, 84, 86, 87, and 88.

4VAC15-390-10. Applicability.

~~The following sections in this~~ This chapter ~~apply~~ applies to the operation of ~~"vessels,"~~ vessels, as "vessel" is defined in § 29.1-700 of the Code of Virginia, on all waters within the Commonwealth. ~~Vessels complying with the Inland Navigation Rules~~ In addition to the regulations set forth in this chapter, U.S. Coast Guard regulations 33 CFR Parts 83, 84, 86, 87, and 88, as ~~established by the U.S. Coast Guard~~ published July 1, 2024, are ~~considered to be in compliance with the requirements of~~ incorporated by reference into this chapter. Violations of 33 CFR Parts 83, 84, 86, 87, and 88 may be charged as a violation of this section.

VA.R. Doc. No. R26-8699; Filed July 7, 2026, 4:35 p.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: **4VAC15-430. Watercraft: Safety Equipment Requirements (amending 4VAC15-430-30; adding 4VAC15-430-211).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Public Comment Deadline: August 17, 2026.

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

Summary:

The proposed amendments require (i) a child younger than 13 years of age wear a life jacket while riding in a vessel that is underway and (ii) an operator of a certain sized and powered motorboat be tethered to the engine shut-off switch while on plane or in displacement mode.

4VAC15-430-30. Personal flotation devices required.

A. Except as provided in 4VAC15-430-40, it shall be unlawful to use a recreational vessel unless:

1. At least one wearable PFD is on board for each person;

2. Each PFD is used in accordance with any requirements on the approval label; and

3. Each PFD is used in accordance with any requirements in its owner's manual if the approval label makes reference to such a manual.

B. Except as provided in 4VAC15-430-40, it shall be unlawful to use a recreational vessel of 16 feet or greater unless one throwable PFD is on board in addition to the total number of PFDs required in subsection A of this section.

C. Notwithstanding the provisions of § 29.1-742 of the Code of Virginia, it shall be unlawful to operate a personal watercraft unless each person riding on the personal watercraft or being towed by it is wearing a wearable PFD that is approved for such activity.

D. No person may operate a recreational vessel under way with any child younger than 13 years of age aboard, unless the child is either:

1. Wearing an appropriate PFD approved by the U.S. Coast Guard, or

2. Below decks or in an enclosed cabin.

4VAC15-430-211. Engine cut-off switch required.

A. Any operator of a motorboat 26 feet or shorter with a motor over three horsepower or capable of developing 115 pounds or more of static thrust and equipped with an engine cut-off switch shall attach the engine cut-off switch tether to the operator's person while on plane or otherwise in displacement mode, unless the main helm of the vessel is within an enclosed cabin.

B. This section does not apply to personal watercraft as defined in § 29.1-700 of the Code of Virginia.

VA.R. Doc. No. R26-8700; Filed July 7, 2026, 4:36 p.m.

Final Regulation

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

Title of Regulation: **4VAC20-1390. Pertaining to Shrimp (amending 4VAC20-1390-50).**

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

Effective Date: June 30, 2026.

Agency Contact: Benjamin Foster, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23551, telephone (757) 709-9277, or email benjamin.foster@mrc.virginia.gov.

Summary:

The amendments increase to 26 the number of Commercial Shrimp Trawl Licenses available in any fishing year.

4VAC20-1390-50. Shrimp trawl licensing and entry requirements.

A. The maximum number of Commercial Shrimp Trawl Licenses issued in any fishing year shall be ~~17~~ 26.

B. An individual shall be eligible for a Commercial Shrimp Trawl License if they possess a valid Commercial Fishing Registration License and meet either of the following criteria:

1. The individual shall have possessed a Commercial Shrimp Trawl License and reported harvest of at least 500 pounds by shrimp trawl gear to the Marine Resources Commission's Mandatory Harvest Reporting Program in at least one of the previous two fishing years.

2. The individual shall have possessed an Experimental Fishing Permit for shrimp trawling ~~and reported harvest of at least 500 pounds by shrimp trawl gear to the Marine Resources Commission's Mandatory Harvest Reporting Program during any year from 2022 through 2024 and received approval of all shrimp trawl gear prior to July 22, 2025~~.

C. If the number of individuals eligible for a Commercial Shrimp Trawl License pursuant to subsection B of this section is fewer than ~~17~~ 26 by July 1 in the current calendar year, a lottery will be conducted, including any individual who meets all of the following criteria:

1. The individual shall possess a valid Commercial Fisherman Registration License.

2. The individual shall complete and submit a Commercial Shrimp Trawl Application that must be received by the Marine Resources Commission by the advertised deadline of the current calendar year.

3. The individual shall have reported harvest to the Marine Resources Commission's Mandatory Harvest Reporting Program of at least 1,000 pounds of harvest per year in at least three of the previous five calendar years.

D. Any individual selected under subsection C of this section who fails to return a completed Commercial Shrimp Trawl License Acceptance Form provided by the commission indicating their acceptance within 14 days of selection shall forfeit their eligibility for the current fishing year and another individual shall be selected from the list of eligible individuals pursuant to subsection C of this section.

E. The commission shall approve all shrimp trawl gear, as referenced in 4VAC20-1390-60, prior to the issuance of a Commercial Shrimp Trawl License.

F. Transfers of any Commercial Shrimp Trawl License shall be prohibited without written request to the Marine Resources Commission and approval by the Commissioner of the Marine Resources Commission or the commissioner's designee. Exceptions to transfers shall only be granted due to death, medical hardships, or military service.

G. The use of agents shall be prohibited for any Commercial Shrimp Trawl Licensee without written request to the Marine Resources Commission and approval by the commissioner or the commissioner's designee. Exceptions to the use of agents shall only be granted due to death, medical hardships, or military service. The use of agents shall only be approved for a consecutive two-week period during any fishing season.

H. Each Commercial Shrimp Trawl Licensee shall report to the Marine Resources Commission's Mandatory Harvest Reporting Program an estimate of total bycatch in pounds for each fishing trip.

I. Each Commercial Shrimp Trawl Licensee shall report to the Marine Resources Commission Fisheries Management Staff interactions with any protected or endangered species within 24 hours of each trip.

VA.R. Doc. No. R26-8502; Filed June 30, 2026, 2:43 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Final Regulation

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

Title of Regulation: **9VAC25-20. Fees for Permits and Certificates (amending 9VAC25-20-90, 9VAC25-20-148).**

Statutory Authority: §§ 62.1-44.15:6, 62.1-44.16, and 62.1-44.19:3 of the Code of Virginia.

Effective Date: August 26, 2026.

Agency Contact: Neil Zahradka, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4102, or email neil.zahradka@deq.virginia.gov.

Background: Section 62.1-44.19:3 of the Code of Virginia currently allows localities to adopt an ordinance that provides for the testing and monitoring of the land application of sewage sludge within its political boundaries to ensure compliance with applicable laws and regulations.

Summary:

Pursuant to Chapter 933 of the 2026 Acts of Assembly, the amendments (i) expand the testing of sewage sludge within a locality's boundaries to include testing for perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined in § 62.1-44.34:29 of the Code of Virginia, and (ii) state that such testing and monitoring are not eligible for reimbursement from the Sludge Management Fund.

9VAC25-20-90. Deposit and use of fees.

A. Sludge Management Fund. All land application fees collected from permit holders who land apply biosolids or industrial residuals in the Commonwealth of Virginia~~,~~ and fees collected from permit holders and persons applying for permits and permit modifications pursuant to § 62.1-44.19:3 of the Code of Virginia shall be deposited into the Sludge Management Fund established by~~,~~ and used and accounted for as specified in §§ 62.1-44.16 and 62.1-44.19:3 of the Code of Virginia. Payments to the Department of Conservation and Recreation for their costs related to implementation of the biosolids land application program and to localities with duly adopted ordinances providing for the testing and monitoring of the land application of biosolids or industrial residuals will be made from this fund. Such ordinance may provide for testing and monitoring for PFAS, as that term is defined in § 62.1-

44.34:29 of the Code of Virginia, using an applicable test method established by the U.S. Environmental Protection Agency; however, no expenses for such testing and monitoring shall be eligible for reimbursement from the Sludge Management Fund. Fees collected shall be exempt from statewide indirect costs charged and collected by the Department of Accounts and shall not supplant or reduce the general fund appropriation to the department.

B. State Water Control Board Permit Program Fund. All fees collected in response to this chapter and not deposited into the Sludge Management Fund shall be deposited into the State Water Control Board Permit Program Fund established by~~,~~ and used and accounted for as specified in § 62.1-44.15:7 of the Code of Virginia. Payment to the Departments of Conservation and Recreation and ~~Game and Inland Fisheries~~ of Wildlife Resources for permit applications they are required under state law to review will be made from this fund. Fees collected shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

9VAC25-20-148. Reimbursable local monitoring costs.

A. Reasonable expenses for the following types of activities may be submitted for reimbursement:

1. Charges for reviewing the permit to identify potential health and environmental protection issues upon notification by the permittee that operations will be initiated on permitted sites.

2. Charges and expenses, including local travel for site monitoring, inspections, collection and delivery of biosolids, industrial residuals, or soil samples to a nearby laboratory and examination of records.

3. Charges for recordkeeping.

4. Charges for complaint and incident response.

5. Charges for biosolids, industrial residuals, and soil sample testing costs.

6. Charges for the training of local monitors.

B. Charges for site monitoring not associated with determining compliance with state or federal law or regulation are ineligible for reimbursement.

C. No expenses for testing and monitoring for PFAS, as that term is defined in § 62.1-44.34:29 of the Code of Virginia, shall be eligible for reimbursement.

VA.R. Doc. No. R26-8646; Filed July 1, 2026, 1:42 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Fast-Track Regulation

Title of Regulation: **12VAC5-421. Food Regulations (amending 12VAC5-421-10, 12VAC5-421-50, 12VAC5-421-65, 12VAC5-421-70, 12VAC5-421-80, 12VAC5-421-160, 12VAC5-421-220, 12VAC5-421-250, 12VAC5-421-270, 12VAC5-421-400, 12VAC5-421-420, 12VAC5-421-430, 12VAC5-421-440, 12VAC5-421-470, 12VAC5-421-510, 12VAC5-421-620, 12VAC5-421-700, 12VAC5-421-790, 12VAC5-421-830, 12VAC5-421-850, 12VAC5-421-870, 12VAC5-421-900, 12VAC5-421-910, 12VAC5-421-950, 12VAC5-421-1435, 12VAC5-421-1535, 12VAC5-421-1540, 12VAC5-421-2010, 12VAC5-421-2190, 12VAC5-421-3140, 12VAC5-421-3360, 12VAC5-421-3370, 12VAC5-421-3510, 12VAC5-421-3595, 12VAC5-421-3630, 12VAC5-421-3700, 12VAC5-421-3860; adding 12VAC5-421-445, 12VAC5-421-726).**

Statutory Authority: §§ 35.1-11 and 35.1-14 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: August 26, 2026.

Effective Date: September 10, 2026.

Agency Contact: Lance Gregory, Director, Office of Environmental Health Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7491, fax (804) 864-7475, or email lance.gregory@vdh.virginia.gov.

Basis: Section 35.1-11 of the Code of Virginia requires the State Board of Health to make, adopt, promulgate, and enforce regulations necessary to protect the public health and safety and considering accepted standards of health, including the use of precautions to prevent the transmission of communicable diseases, hygiene, sanitation, safety, and physical plant management. Section 35.1-14 of the Code of Virginia authorizes the board to adopt any edition of the Food and Drug Administration's (FDA) Food Code or any portion of the Food Code and its amendments as regulations with any amendments the board deems appropriate.

Purpose: The purpose of this action is to prevent foodborne illness by ensuring that foods prepared and served at food establishments in Virginia are safe, unadulterated, and prepared under sanitary conditions. This is accomplished by maintaining a regulation that reflects current science and technology regarding minimum sanitary standards for food establishments, which include approved sources for foods used in food establishments, specifications for safe handling, storage, preparation, and service of food, personal hygiene of employees, precautions to prevent the transmission of diseases communicable through food, and the general sanitation of the facility. When followed, these minimum standards will protect the public health, safety, and welfare. In addition, conforming the regulation to the 2022 FDA Food Code ensures that the regulation promotes uniformity in administration of the food safety program.

The goals of this action are to ensure the regulation represents best practices related to food safety in food establishments, strengthen consumer confidence in the safety of the food served in the Commonwealth, and ensure administration of the regulation is carried out in the most cost-effective manner.

The benefits of adopting and implementing uniform standards include higher compliance, consistent training of public health staff, and an increased shared responsibility of the food industry and the government in ensuring food provided to the consumer is safe and does not become a vehicle for a disease outbreak or for the transmission of communicable disease.

Rationale for Using Fast-Track Rulemaking Process: This action is considered noncontroversial and therefore appropriate for the fast-track rulemaking process because it ensures that the regulation reflects changes to the 2022 FDA Food Code, complements current Virginia law, and provides minimal burdens on regulants while protecting public health.

Substance: The amendments conform the regulation to the 2022 FDA Food Code by (i) updating definitions and terminology; (ii) allowing flexibility for food establishments that pose a minimal risk; (iii) expanding the role of responsible management in the food establishment; (iv) clarifying conditions in which food employees shall be excluded or restricted from work duties due to illness; (v) clarifying the handling and tagging requirements of shellfish products; (vi) updating risk categorization requirements; (vii) updating poisonous material storage requirements; (viii) updating enforcement, variances, and food donation provisions; and (ix) updating cross-references.

Issues: The primary advantage to the public is the reduction of the risk of foodborne illnesses within food establishments, which protects consumers and industry from potentially devastating health consequences and financial losses. The revisions also make the regulations more understandable and align them with best practices. The primary advantage to the agency is that the regulations will be based on current food science and clarify ambiguous areas relating to enforcement and inspection standards. Staff will have a better understanding of the improved regulatory scheme of food safety, which will enhance communication to the public and regulant community regarding how to prevent foodborne illness. The primary advantage to the regulated community, particularly chains and franchises that operate in other states and in multiple jurisdictions across the Commonwealth that have adopted the current version of the FDA Food Code, is more consistent regulatory application. There are no known disadvantages to the public or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The State Board of Health (board) proposes to amend the existing Food Regulations to incorporate, in part, 2022 amendments to the Food and Drug Administration (FDA) Food Code.

Background. The Food Regulations establish minimum sanitary standards for the operation of Commonwealth food establishments,[2] which include traditional restaurants, mobile food units, temporary food vendors, hospital and nursing facility food service, and school food service. Those standards include: (i) the safe and sanitary maintenance, storage, operation, and use of equipment; (ii) the safe preparation, handling, protection, and preservation of food, including necessary refrigeration and heating methods; (iii) procedures for vector and pest control; (iv) requirements for toilet and cleansing facilities for employees and customers; (v) requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; (vi) requirements for an approved water supply and sewage disposal system; (vii) personal hygiene standards for employees, particularly those engaged in food handling; and (viii) the appropriate use of precautions to prevent the transmission of communicable diseases. Standards in the regulation are labeled as either priority, priority foundation, or core. The current and proposed regulation states that a permit holder shall at the time of inspection correct a priority item or priority foundation item in this chapter and implement corrective actions for a hazard analysis and critical control point (HACCP) plan provision that is not in compliance with its critical limit. Further, considering the nature of the potential hazard involved and the complexity of the corrective action needed, the department may agree to or specify a longer timeframe, not to exceed: 1. 72 hours after the inspection for the permit holder to correct priority items; or 2. 10 calendar days after the inspection for the permit holder to correct priority foundation items or HACCP plan deviations. For core items, the current and proposed regulation state that the permit holder shall correct core items by a date and time agreed to or specified by the department but no later than 90 calendar days after the inspection.[3]

Proposed amendments with potential impact include the following: (i) adding "sesame" to the definition of "major food allergen" may have impact as described in the Estimated Benefits and Costs section; (ii) The current and proposed regulation both state that the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation. The board proposes to add that This section shall not apply to certain types of food establishments deemed by the department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of the food preparation; (iii) The board proposes to add the following to the list of items for which the person in charge is responsible to ensure: Food employees are properly maintaining the temperature of time/temperature control for safety foods during thawing through daily oversight of the food employees' routine monitoring of food temperatures; (iv) under the current regulation, food employees who are diagnosed with an infection from Salmonella (nontyphoidal) and are asymptomatic, are to be prevented from working as an employee in the food establishment or entering the food establishment as an employee. The board proposes to amend the text to indicate that such individuals are to be restricted rather than be excluded from working. The current and proposed regulation define restrict as to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles; (v) The board proposes to add text which would restrict food employees from handling dogs that are allowed in an outdoor dining area of the food establishment; (vi) The requirement that food prepared in a private home shall not be used or offered for human consumption in a food establishment unless the home kitchen is inspected and regulated by the Virginia Department of Agriculture and Consumer Services is currently a priority standard. The board proposes to make it priority foundation. (vii) The board proposes to add that Molluscan shellfish from one tagged or labeled container may not be commingled with molluscan shellfish from another container with different certification numbers, different harvest dates, or different harvest areas identified on the tag or label before being ordered by the consumer; (viii) The current regulation requires specified recordkeeping information on the tag or label. The proposed regulation adds a third option, the invoice; (ix) Currently, the prohibition on storing food in toilet rooms or their vestibules is a core standard. The board proposes to make it priority foundation; (x) This section is new under the proposed regulation. In its entirety, it states that A. Commercially packaged food that bears manufacturer cooking instructions shall be cooked according to those instructions before use in ready-to-eat foods or offered in unpackaged form for human consumption, unless manufacturer instructions specify that the food may be consumed without cooking.[P] B. Food for which the manufacturer has provided information that it has not been processed to control pathogens, when used in ready-to-eat foods or offered for human consumption, shall be cooked according to a time and temperature appropriate for the food.[P] The P superscripts indicate that the proposed new standards are priority items.

Estimated Benefits and Costs. Alignment of the Virginia Food Regulations to the 2022 FDA Food Code may benefit chain food establishments that operate in other states and localities that also use the most up to date version of the Food Code. Many large chain operations use the most recent edition of the Food Code as an operational standard to ensure they reduce liability and operate consistently throughout their operational region.[4] By adopting current changes to the FDA Food Code, there is also consistency with the Virginia Department of Agriculture and Consumer Services Retail Food Establishment Regulations.[5] The current regulation requires that labels on food packaged in a food establishment include The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient. In the proposed regulation (Section 900), bulk food that is available for consumer self-dispensing must also be prominently labeled with each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient. The board also proposes to state that the permit holder shall notify consumers by written notification of the presence of major food allergens as an ingredient in unpackaged food items that are served or sold to the consumer.

Given the current and proposed notification requirements (see above paragraph), adding sesame to the definition of major food allergen would make it substantively more likely that individuals allergic to sesame would be aware that food that they may have eaten at or from a food establishment contains sesame. According to the U.S. Department of Health and Human Services, National Institutes of Health, the sesame allergy is one of the ten most common childhood food allergies, and reactions can be severe.[6] Sesame allergies can cause anaphylaxis, a serious and potentially life-threatening reaction.[7] Thus, adding sesame to the definition of major food allergen would likely be substantively beneficial for public health. The cost to the food establishment permit holder of providing this information on menus, packages, bulk food containers, etc., would likely be small, particularly compared to the potential benefit. The National Restaurant Association has indicated that they believe the costs would be minor.[8] Exempting food establishments deemed by VDH to pose minimal risk of causing, or contributing to, foodborne illness from the requirement that a person in charge is present at the food establishment during all hours of operation would reduce labor costs for such food establishments. According to the agency, this would primarily apply to vending machine operations. The board proposes to add the following to the list of items for which the person in charge is responsible to ensure food employees are properly maintaining the temperature of time/temperature control for safety foods during thawing through daily oversight of the food employees' routine monitoring of food temperatures. The regulation already contains specific time/temperature control requirements for thawing. Adding this to the list of items for which the person in charge is responsible to ensure would put a greater emphasis on the importance of following safe thawing methods, but it would not likely produce a large change on what occurs in practice. The person in charge may remind the employees more often on what the safe thawing methods are. Under the current regulation food employees who are diagnosed with an infection from Salmonella (nontyphoidal) and are asymptomatic, are to be prevented from working as an employee in the food establishment. The board proposes to amend the text to allow such individuals to work in a capacity where their activities are limited to where there is no risk of transmitting the disease and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles. This proposed amendment would be beneficial for both employees with such infections in that they can earn income, and for the food establishment in staffing. The board proposes to add text which would restrict food employees from handling dogs that are allowed in an outdoor dining area of the food establishment. The current text already requires hand washing. To the extent that hand washing is not sufficient from preventing contamination of food from handling dogs, this proposed amendment may improve public health. The requirement that food prepared in a private home shall not be used or offered for human consumption in a food establishment unless the home kitchen is inspected and regulated by the Virginia Department of Agriculture and Consumer Services is currently a priority standard. The board proposes to make it priority foundation instead. As described above, this could allow the food establishment more time to correct the violation (up to 10 calendar days rather than 72 hours). The board proposes to add that Molluscan shellfish from one tagged or labeled container may not be commingled with molluscan shellfish from another container with different certification numbers, different harvest dates, or different harvest areas identified on the tag or label before being ordered by the consumer. Proper identification is vital for tracing the origin of shellfish in the event of a foodborne outbreak. Prohibiting the comingling may make it more likely that tracing the origin of shellfish in the event of a foodborne outbreak can be done accurately. This is beneficial in that it may reduce the likelihood that people consume unsafe molluscan shellfish. It could also potentially be beneficial for the food establishment and providers of the molluscan shellfish in that recalls of the product could be narrower and the area of growing waters closed to harvesting could be smaller when identification is more precise. Adding a third option (invoices) for recordkeeping could be beneficial for food establishments that would prefer that option over the existing two (tag or label). Currently, the prohibition on storing food in toilet rooms or their vestibules is a core standard. The board proposes to make it priority foundation. This would reduce the maximum number of days that the food establishment could be given to correct this violation from 90 to 10. This section is new under the proposed regulation. In its entirety, it states that: A. Commercially packaged food that bears manufacturer cooking instructions shall be cooked according to those instructions before use in ready-to-eat foods or offered in unpackaged form for human consumption, unless manufacturer instructions specify that the food may be consumed without cooking.[P] B. Food for which the manufacturer has provided information that it has not been processed to control pathogens, when used in ready-to-eat foods or offered for human consumption, shall be cooked according to a time and temperature appropriate for the food.[P] The P superscripts indicate that the proposed new standards are priority items. The proposed new standards may be beneficial for food safety, but may also limit chef creativity if she or he wishes to cook the commercially packaged food in a different way than is described in manufacturer instructions. The board proposes to convert several thawing standards from core to priority foundation. This would reduce the maximum number of days that the food establishment could be given to correct this violation from 90 to 10. The current regulation states that: B. If time without temperature control is used as the public health control up to a maximum of four hours: 1. The food shall have an initial temperature of 41F (5C) or less when removed from cold holding temperature control or 135F (57C) or greater when removed from hot holding temperature control. The board proposes to add the following exception to this requirement, which provides that: 2. The food may have an initial temperature of 70F (21C) of less if: a. It is a ready-to-eat fruit or vegetable that upon cutting is rendered a time/temperature control for safety food; or b. It is a ready-to-eat hermetically sealed food that upon opening is rendered a time/temperature control for safety food; c. The food temperature does not exceed 70F (21C) within a maximum time period of 4 hours from the time it was rendered a time/temperature control for safety food; and d. The food is marked or otherwise identified to indicate the time that is 4 hours after the food is rendered a time/temperature control for safety food as specified in subdivisions B 2 a and B 2 b of this section. This could be beneficial for food establishments in that it gives them greater flexibility. Also, by increasing the maximum initial temperature (from 41F to 70F) for certain circumstances, this could result in energy costs savings (reduced need for refrigeration). The board proposes to include an additional option to package and seal food products by a cooling or sous-vide process so long as the food meets certain refrigeration requirements. The additional option could be beneficial for food establishments that wish to use it. The board proposes to require food establishments to notify patrons (through a card, sign, or other method) regarding potential allergens in bulk food that is available for consumer self-dispensing. This would make it substantively more likely that individuals with food allergies would be aware that the bulk food contains the food for which they are allergic. As described above, food allergies can potentially be life threatening. Thus, this proposal would likely be substantively beneficial for public health. As mentioned above, the National Restaurant Association has indicated that they believe the costs would be minor.[9] The board proposes to require food establishment permit holders to notify consumers in writing of the presence of major food allergens as an ingredient in unpackaged food items that are served or sold to the consumer. This would make it substantively more likely that individuals with food allergies would be aware that the unpackaged food, including meals at restaurants, contains the food for which they are allergic. Food allergies can potentially be life threatening. Thus, this proposal would likely be substantively beneficial for public health. As mentioned above, the National Restaurant Association has indicated that they believe the costs would be minor.[10] This section in its entirety states that: A. Cleaning agents that are used to clean equipment and utensils as specified under Article 6 (12VAC5-421-1770 et seq.) of this part shall be provided and available for use during all hours of operation. B. Except for chemical sanitizers that are generated on site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under Article 7 shall be provided and available for use during all hours of operation. In addition to stylistic changes, the board proposes to convert these two standards from core to priority foundation. This would reduce the maximum number of days that the food establishment could be given to correct this violation from 90 to 10. Currently, the prohibition on locating equipment, cabinets used for the storage of food, or cabinets used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use article in toilet rooms or their vestibules is a core standard. The board proposes to make it priority foundation. This would reduce the maximum number of days that the food establishment could be given to correct this violation from 90 to 10. Currently, the prohibition on storing cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles in toilet rooms or their vestibules is a core standard. The board proposes to make it priority foundation. This would reduce the maximum number of days that the food establishment could be given to correct this violation from 90 to 10. The board proposes to reduce the minimum hot water temperature at a handwashing sink from 100F to 85F. This could result in energy cost savings for food establishments. The current section in its entirety is the following sentence: A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food.[P] The board proposes to add, equipment, utensils, linens, single-service, or single-use articles at the end of the sentence, after food. To the extent that containers previously used to store poisonous or toxic materials are actually used to store, transport, or dispense equipment, utensils, linens, single-service, or single-use articles, and the poisonous or toxic materials are not consistently 100% removed from the containers, this proposed amendment could improve public health. It seems unlikely that finding containers that were not previously used to store poisonous or toxic materials would be costly. The board proposes to amend this section to indicate that VDH shall apply this regulation to donated food. According to the agency, this would not increase staff workload more than negligibly. By ensuring that donated food at food establishments also meets regulation standards, public health may be improved.

Businesses and Other Entities Affected. The proposed amendments affect the approximate 31,000 permitted food establishments in the Commonwealth.[11] The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[12] 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.[13] Some of the proposed amendments likely produce a net benefit for society overall, but still do increase costs for some individual entities. For example, though the proposed required notifications for the presence of allergens potentially have large benefits for people with food allergies, they do (moderately) increase costs for food establishments. Thus, an adverse impact is indicated for food establishments.

Small Businesses[14] Affected.[15] Types and Estimated Number of Small Businesses Affected: VDH believes that the vast majority of the approximate 31,000 permitted food establishments would qualify as small businesses, with exceptions for large chains that do not operate as franchises and large medical care corporations that have food service. Costs and Other Effects: The proposed required notifications for the presence of allergens moderately increase costs for small food establishments. Alternative Method that Minimizes Adverse Impact: There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities[16] Affected.[17] The proposed amendments neither disproportionally affect any particular localities, nor directly affect costs for local governments.

Projected Impact on Employment. The proposed amendments are not likely to have a large impact on total employment.

Effects on the Use and Value of Private Property. the proposals to reduce the minimum hot water temperature at a handwashing sink from 100F to 85F and to increase the maximum initial temperature from 41F to 70F for certain circumstances when time without temperature control is used as the public health control, may result in reduced energy costs for some food establishments. These reduced costs could increase the value of these businesses. The proposed exemption from the requirement that a person in charge is present at the food establishment during all hours of operation for food establishments deemed by VDH to pose minimal risk of causing, or contributing to, foodborne illness would reduce labor costs for such businesses, resulting in increased value. The proposed required notifications for the presence of allergens moderately increase costs for food establishments, potentially moderately reducing value. The proposed amendments do not affect real estate development costs.

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[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] The regulation defines food establishment as an operation that (i) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a market, restaurant, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, vending location, conveyance used to transport people, institution, or food bank and (ii) relinquishes possession of a food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers..

[3] The regulation also states that The department may approve a compliance schedule that extends beyond the time limits specified under subsection A of this section if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance..

[4] Source: VDH (see page three of Office of Regulatory Management Economic Review Form: https://townhall.virginia.gov/L/GetFile.cfm?File=58\6418\10257\ORM_EconomicImpact_VDH_10257_v1.pdf).

[5] See https://law.lis.virginia.gov/admincode/title2/agency5/chapter585/.

[6] See https://www.nih.gov/news-events/nih-research-matters/sesame-allergy-common-among-children-food-allergies.

[7] See https://www.healthline.com/health/allergies/understanding-sesame-allergies.

[8] Source: VDH (see page one of Office of Regulatory Management Economic Review Form: https://townhall.virginia.gov/L/GetFile.cfm?File=58\6418\10257\ORM_EconomicImpact_VDH_10257_v1.pdf).

[9] Ibid.

[10] Ibid.

[11] Data source: VDH.

[12] 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.

[13] 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.

[14] 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."

[15] 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.

[16] "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.

[17] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Background: The Food and Drug Administration (FDA) Food Code serves as a model document to assist state and local agencies with regulatory authority over food safety by creating a regulatory scheme that reflects the most current science available to reduce the risk of foodborne illnesses associated with food establishments.

Summary:

The amendments incorporate certain 2022 amendments to the FDA Food Code, including updating definitions and cross-references and changing standards related to temperatures, food donation, and risk categorization. Additional amendments ensure clarity and uniform application.

12VAC5-421-10. Definitions.

A. Section 35.1-1 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter.

"Board"

"Commissioner"

"Department"

B. For the purposes of implementing this chapter, the term "food establishment" as defined ~~herein~~ in this section is equivalent to the term "restaurant" as defined in § 35.1-1 of the Code of Virginia.

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

"Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards that certify individuals. "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, recertification, discipline and grievance procedures; and test development and administration. "Accredited program" does not refer to training functions or educational programs.

"Additive" means either a (i) "food additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.3(e)(1) or (ii) "color additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.3(f).

"Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 402.

"Agent" means a legally authorized representative of the owner.

"Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Approved water system" means a permitted waterworks constructed, maintained, and operated pursuant to 12VAC5-590, Waterworks Regulations; or a private well constructed, maintained, and operated pursuant to 12VAC5-630, Private Well Regulations.

"Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

"a_w" means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w.

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

"Bed and breakfast operation" means a residential-type establishment that provides (i) two or more rental accommodations for transient guests and food service to a maximum of 18 transient guests on any single day for five or more days in any calendar year or (ii) at least one rental accommodation for transient guests and food service to a maximum of 18 transient guests on any single day for 30 or more days in any calendar year.

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Building official" means a representative of the Department of Housing and Community Development.

"Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

"Catering operation" means a person who contracts with a client to prepare a specific menu and amount of food in a permitted food establishment for service to the client's guests or customers at a service location different from the permitted food establishment. Catering may also include cooking or performing final preparation of food at the service location.

"Catering operation" does not include:

1. A private chef or cook who, as the employee of a consumer, prepares food solely in the consumer's home.

2. Delivery service of food by an approved and permitted food establishment to an end consumer.

"Certification number" means ~~a~~ the unique ~~combination of letters and numbers assigned~~ identification number issued by ~~a~~ the shellfish control authority to ~~a molluscan shellfish~~ each dealer ~~according to~~ for each location. Each certification number shall consist of a one-to-five-digit Arabic number preceded by the two-letter State abbreviation and followed by a two-letter abbreviation for the type of activities the dealer is qualified to perform in accordance with the provisions of the National Shellfish Sanitation Program.

Table A. Certifications	
Acronym	Term
SP	Shucker Packer
RP	Repacker
SS	Shellstock Shipper
RS	Reshipper
DP	Depuration

Table B. Permits	
Acronym	Term
PHP	Post-Harvest Processing
AQ	Aquaculture
WS	Wet Storage

"CFR" means Code of Federal Regulations. Citations in this chapter to the CFR refer sequentially to the title, part, and section number, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

"Clean in Place" or "CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. "CIP" does not include the cleaning of equipment such as band saws, slicers or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"Commingle" means~~: 1. To combine shellstock harvested on~~ the act of combining different ~~days or from different growing areas as identified on the tag or label; or 2. To combine shucked~~ lots of shellfish ~~from containers with different container codes or different shucking dates~~.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. "Comminuted" includes (i) fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage and (ii) a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Commissary" means a food establishment in which food, food containers, or supplies are kept, handled, prepared, packaged, or stored for distribution to satellite operations.

"Commonwealth" means the Commonwealth of Virginia.

"Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Core item" means a provision in this chapter that is not designated as a priority item or a priority foundation item. Core item includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

"Corrosion-resistant materials" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of a shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program and is listed in the U.S. Food and Drug Administration's Interstate Certified Shellfish Shippers List, updated monthly (U.S. Food and Drug Administration).

"Director" means the district or local health director.

"Disclosure" means a written statement that clearly identifies the animal derived foods that are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not time/temperature control for safety food and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;

2. Is dependent on the material, design, construction, and installation of the surface; and

3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

"Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in this definition to different situations in which varying degrees of cleanability are required such as:

1. The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or

2. The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

"Easily movable" means:

1. Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. Egg does not include a balut; egg of the reptile species such as alligator; or an egg product.

"Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen, or liquid eggs. Egg product does not include food that contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

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

"Equipment" means an article that is used in the operation of a food establishment. "Equipment" includes items such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. Equipment does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption and includes an edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

"Food" means (i) a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or (ii) chewing gum.

"Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

"Food-contact surface" means a surface of equipment or a utensil with which food normally comes into contact, or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food establishment" means an operation that (i) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food to the public for human consumption, such as a restaurant, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, conveyance used to transport people, institution, or food bank, and (ii) relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

"Food establishment" includes (i) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted under this chapter; and (ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location where consumption is on or off the premises and regardless of whether there is a charge for the food.

"Food establishment" does not include:

1. An establishment that offers only prepackaged food that is not time/temperature control for safety food;

2. A produce stand that only offers whole, uncut fresh fruits and vegetables; or

3. A food processing plant, including those that are located on the premises of a food establishment.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants or food establishments. Food processing plant does not include a food establishment.

"Game animal" means an animal, the products of which are food, that is not classified as (i) livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2; (ii) poultry; or (iii) fish. "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat and nonaquatic reptiles such as land snakes. "Game animal" does not include ratites.

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

"Grade A standards" means the requirements of the Grade "A" Pasteurized Milk Ordinance, 2017 Revision (U.S. Food and Drug Administration), with which certain fluid and dry milk and milk products comply.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of hands. Handwashing sink includes an automatic handwashing facility.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Hazard Analysis and Critical Control Point" or "HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:

1. Immunocompromised, preschool age children, or older adults; and

2. Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Injected" means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping."

"In-shell product" means non-living, processed shellfish with one or both shells present.

"Intact meat" means a cut of ~~whole muscle~~ whole-muscle meat that has not undergone comminution, injection, mechanical tenderization, vacuum tumbling with solutions, reconstruction, cubing, or ~~reconstruction~~ pounding.

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. Juice does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and federal statutes, regulations, and ordinances.

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, ~~and~~ soybeans, and sesame; or a food ingredient that contains protein derived from one of these foods. Major food allergen does not include any highly refined oil derived from a major food allergen in this definition and any ingredient derived from such highly refined oil or any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (P.L. 108-282).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under 12VAC5-421-330 A 2 and A 3.

"Mechanically tenderized" means manipulating meat ~~with deep penetration~~ by piercing with a set of needles, pins, blades, or any mechanical device that breaks up muscle fiber and tough connective tissue to increase tenderness. This includes injection, scoring, and processes ~~which~~ that may be referred to as "blade tenderizing," "jaccarding," "pinning," or "needling~~,~~" ~~or using blades, pins, needles, or any mechanical device. "Mechanically tenderized" does not include processes by which solutions are injected into meat~~.

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

"Mobile food unit" means a food establishment mounted on wheels (excluding boats in the water) readily moveable from place to place at all times during operation and shall include pushcarts, trailers, trucks, or vans. The unit, all operations, and all equipment must be integral to and be within or attached to the unit.

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle. Molluscan shellfish includes shellstock, shucked shellfish, and in-shell products.

"Noncontinuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. "Noncontinuous cooking" does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

"Occasional" means not more than one time per week, and not in excess of two days duration.

"Packaged" means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

"Permit" means a license issued by the department that authorizes a person to operate a food establishment.

"Permit holder" means person that is legally responsible for the operation of the food establishment and possesses a valid permit to operate a food establishment.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. Personal care items include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

"Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in ~~four~~ five categories:

1. Cleaners and sanitizers, that include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

2. Pesticides, except sanitizers, that include substances such as insecticides and rodenticides;

3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants, paints, and personal care items that may be deleterious to health; ~~and~~

4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints; and

5. Restricted use pesticides.

"Potable water" means water fit for human consumption that is obtained from an approved water supply and that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia). Potable water is traditionally known as drinking water and excludes such nonpotable forms as "boiler water, "mop water," "rainwater," "wastewater," and "nondrinking water."

"Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1, and any migratory waterfowl, game bird, pheasant, partridge, quail, grouse, or pigeon whether live or dead, as defined in 9 CFR 362.1.

"Premises" means the physical facility, its contents, and the contiguous land or property under the control of the permit holder; or the physical facility, its contents, and the land or property which are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

"Priority foundation item" means a provision in this chapter whose application supports, facilitates, or enables one or more priority items. "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling and is denoted in this regulation with a superscript Pf-^{Pf}.

"Priority item" means a provision in this chapter whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, and handwashing and is denoted in this chapter with a superscript P-^{P}.

"Private well" means any water well constructed for a person on land that is owned or leased by that person and is usually intended for household, groundwater source heat pump, agricultural use, industrial use, or other nonpublic water well.

"Pure water" means potable water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts and (ii) adequate in quantity and quality for the minimum health requirements of the persons served (see §§ 32.1-167 and 32.1-176.1 of the Code of Virginia and 12VAC5-590, Waterworks Regulations and 12VAC5-630, Private Well Regulations. Potable water is traditionally known as drinking water, and excludes such nonpotable forms as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking water."

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Ready-to-eat food" means food that:

1. Is in a form that is edible without additional preparation to achieve food safety, as specified under 12VAC5-421-700 A, B, and C, 12VAC5-421-710, or 12VAC5-421-730;

2. Is a raw or partially cooked animal food and the consumer is advised as specified under 12VAC5-421-700 D 1 and D 3; or

3. Is prepared in accordance with a variance that is granted as specified under 12VAC5-421-700 D 4.

"Ready-to-eat food" may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" includes:

1. Raw animal food that is cooked as specified under 12VAC5-421-700~~,~~ or 12VAC5-421-710, or frozen as specified under 12VAC5-421-730;

2. Raw fruits and vegetables that are washed as specified under 12VAC5-421-510;

3. ~~Fruits and vegetables~~ Plant foods that are cooked for hot holding as specified under 12VAC5-421-720;

4. All time/temperature control for safety food that is cooked to the temperature and time required for the specific food under Article 4 (12VAC5-421-700 et seq.) of Part III and cooled as specified in 12VAC5-421-800;

5. Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed;

6. Substances derived from plants such as spices, seasonings, and sugar;

7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;

8. The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and

9. Food manufactured as specified in 21 CFR Part 113.

"Ready-to-eat food" does not include:

1. Commercially packaged food that bears a manufacturer's cooking instructions; or

2. Food for which the manufacturer has provided information that it has not been processed to control pathogens.

"Reduced oxygen packaging" means the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and a process as specified in this definition that involves a food for which the hazards Clostridium botulinum or Listeria monocytogenes require control in the final packaged form. Reduced oxygen packaging includes:

1. Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;

2. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air, but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;

4. Cook chill packaging, in which cooked food is hot filled into impermeable bags that ~~have the air expelled and~~ are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens; or

5. Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

"Refuse" means solid waste not carried by water through a sewage system.

"Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Re-service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR Part 590.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 and that is limited to use by or under the direct supervision of a certified applicator.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" means an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in § 409 of the Federal Food, Drug, and Cosmetic Act (21 USC § 348); or other materials that are not additives and that are used in conformity with applicable regulations of the FDA.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

"Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution. Sewage includes water-carried and non-water-carried human excrement or kitchen, laundry, shower, bath, or lavatory waste separately or together with such underground surface, storm, or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments, or other places.

"Shellfish control authority" means a state, federal, foreign, tribal or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce such as the Virginia Department of Health Division of Shellfish Sanitation.

"Shellstock" means ~~raw, in-shell~~ live molluscan shellfish in the shell.

"Shiga toxin-producing Escherichia coli" or "STEC" means any E. coli capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild nonbloody diarrhea to hemorrhagic colitis (i.e., bloody diarrhea) to hemolytic uremic syndrome (HUS), which is a type of kidney failure. Examples of serotypes of STEC include E. coli 0157:H7, E. coli 0157:NM, E. coli 026:H11; E. Coli 0145:NM, E. coli 0103:H2, and E. coli 0111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic E. coli) or as EHEC (Enterohemorrhagic E. coli). EHEC are a subset of STEC that can cause hemorrhagic colitis or HUS.

"Shucked shellfish" means molluscan shellfish that have ~~one or~~ both shells removed.

"Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength, and cleanability specifications contained in 12VAC5-421-960, 12VAC5-421-1080, and 12VAC5-421-1100 for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number three stainless steel; a non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Substantial compliance" means equipment or structure design or construction; food preparation, handling, storage, transportation; or cleaning procedures that will not substantially affect health consideration or performance of the facility or the employees.

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Temporary food establishment" means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

"Time/temperature control for safety food" or "TCS food" means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation:

1. TCS food includes an animal food that is raw or heat treated; a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and except as specified in subdivision 2 d of this definition, a food that because of the interaction of its A_w and pH values is designated as product assessment required (PA) in Table A or B of this definition:

Table A. Interaction of pH and A_w for control of spores in food heat treated to destroy vegetative cells and subsequently packaged.

A_w values	pH values		
	4.6 or less	>4.6 - 5.6	>5.6
≤0.92	non-TCS food*	non-TCS food	non-TCS food
>0.92 - 0.95	non-TCS food	non-TCS food	PA**
>0.95	non-TCS food	PA	PA

*TCS food means time/temperature control for safety food

**PA means product assessment required

Table B. Interaction of pH and A_w for control of vegetative cells and spores in food not heat treated or heat treated but not packaged.

A_w values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
<0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 - 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
>0.90 - 0.92	non-TCS food	non-TCS food	PA	PA
>0.92	non-TCS food	PA	PA	PA

*TCS food means time/temperature control for safety food

**PA means product assessment required

2. TCS food does not include:

a. An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;

b. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

c. A food that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-TCS food in Table A or B of this definition;

d. A food that is designated as PA in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(1) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;

(2) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf-life and use, or temperature range of storage and use; or

(3) A combination of intrinsic and extrinsic factors; or

e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subdivisions 2 a through 2 d of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"Tobacco product" has the meaning stated in the Federal Food, Drug and Cosmetic Act, § 201(rr) (21 USC § 321(rr)).

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single service, or single use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices and probe-type price or identification tags used in contact with food.

"Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, key, electronic transaction, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

"Waterworks" means a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. "Waterworks" includes all structures, equipment and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

12VAC5-421-50. Assignment of responsibility.

A. Except as specified in ~~subsection~~ <u>subsections</u> B <u>and C</u> of this section, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.[Pf]

B. In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises.[Pf]

<u>C. This section shall not apply to certain types of food establishments deemed by the department to pose minimal risk of causing or contributing to foodborne illness based on the nature of the operation and extent of the food preparation.[Pf]</u>

12VAC5-421-65. Food protection manager certification.

A. A person in charge who demonstrates knowledge by being a food protection manager who is certified by a food protection manager certification program that is evaluated <u>and listed</u> by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, (Conference for Food Protection) is deemed to comply with subdivision 2 of 12VAC5-421-60.

B. A food establishment that has an employee who is certified by a food protection certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, April 2012, (Conference for Food Protection) is deemed to comply with 12VAC5-421-55.

12VAC5-421-70. Duties of person in charge.

The person in charge shall ensure that:

1. Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under 12VAC5-421-2990;[Pf]

2. Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;[Pf]

3. Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this chapter;[Pf]

4. Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;[Pf]

5. Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;[Pf]

6. Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;[Pf]

7. Employees are properly cooking time/temperature control for safety food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under 12VAC5-421-1180 and 12VAC5-421-1730 B;[Pf]

8. Employees are using proper methods to rapidly cool time/temperature control for safety food that is not held hot

or is not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;[Pf]

9. Employees are properly maintaining the temperatures of time/temperature control for safety food during hot and cold holding through daily oversight of the employees routine monitoring of food temperatures;[Pf]

10. Food employees are properly maintaining the temperature of time/temperature control for safety foods during thawing through daily oversight of the food employees' routine monitoring of food temperatures;[Pf]

11. Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 12VAC5-421-930 that the food is not cooked sufficiently to ensure its safety;[Pf]

~~11.~~ 12. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;[Pf]

~~12.~~ 13. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified in 12VAC5-421-590;[Pf]

~~13.~~ 14. Except when approval is obtained from the department as specified in 12VAC5-421-450 E, employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment; [Pf]

~~14.~~ 15. Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties. Food allergy awareness includes describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction;[Pf]

~~15.~~ 16. Food employees and conditional employees are informed in a verifiable manner of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under 12VAC5-421-80;[Pf] and

~~16.~~ 17. Written procedures and plans, where specified by this chapter and as developed by the food establishment, are maintained and implemented as required.[Pf]

12VAC5-421-80. Responsibility of permit holder, person in charge, and conditional employees.

A. The permit holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

1. Has any of the following symptoms:

a. Vomiting;[P]

b. Diarrhea;[P]

c. Jaundice;[P]

d. Sore throat with fever;[P] or

e. A lesion containing pus such as a boil or infected wound that is open or draining and is:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;[P]

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover;[P] or

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;[P]

2. Has an illness diagnosed by a health practitioner due to:

a. Norovirus;[P]

b. Hepatitis A virus;[P]

c. Shigella spp.;[P]

d. Shiga toxin-producing Escherichia coli; [P]

e. Typhoid fever (caused by Salmonella typhi);[P] or

f. Salmonella (nontyphoidal);[P]

3. Had Typhoid fever, diagnosed by a health practitioner, within the past three months, without having received antibiotic therapy, as determined by a health practitioner;[P]

4. Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:

a. Norovirus within the past 48 hours of the last exposure;[P]

b. Shiga toxin-producing Escherichia coli, or Shigella spp. within the past three days of the last exposure;[P]

c. Typhoid fever (caused by Salmonella typhi) within the past 14 days of the last exposure;[P] or

d. Hepatitis A virus within the past 30 days of the last exposure;[P] or

5. Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as and has

knowledge about, an individual diagnosed with an illness caused by:

a. Norovirus within the past 48 hours of the last exposure;[P]

b. Shiga toxin-producing Escherichia coli or Shigella spp. within the past three days of the last exposure;[P]

c. Typhoid fever (caused by Salmonella typhi) within the past 14 days of the last exposure;[P] or

d. Hepatitis A virus within the past 30 days of the last exposure.[P]

B. The person in charge shall notify the department when a food employee is:

1. Jaundiced;[Pf] or

2. Diagnosed with an illness due to a pathogen as specified under subdivisions A 2 a through A 2 f of this section.[Pf]

C. The person in charge shall ensure that a conditional employee:

1. Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under subdivisions A 1, A 2, and A 3 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 12VAC5-421-100;[P] and

2. Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under subdivisions A 4 and A 5 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria specified under subdivision 10 of 12VAC5-421-100.[P]

D. The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or history of exposure as specified under subdivisions A 1 through A 5 of this section is:

1. Excluded as specified under subdivisions 1, 2, and 3 of 12VAC5-421-90, and subdivision 4 a, 5 a, 6 a, ~~7,~~ or 8 a of 12VAC5-421-90 and in compliance with the provisions specified under subdivisions 1 through 8 of 12VAC5-421-100;[P] or

2. Restricted as specified under subdivision 4 b, 5 b, 6 b, 7, or 8 b of 12VAC5-421-90, or subdivision 9 or 10 of 12VAC5-421-90 and in compliance with the provisions specified under subdivisions 4 through 10 of 12VAC5-421-100.[P]

E. A food employee or conditional employee shall report to the person in charge the information as specified under subsection A of this section.[Pf]

F. A food employee shall:

1. Comply with an exclusion as specified under subdivisions 1, 2, and 3 of 12VAC5-421-90 and subdivision 4 a, 5 a, 6 a, 7, or 8 a of 12VAC5-421-90 and with the provisions specified under subdivisions 1 through 8 of 12VAC5-421-100;[P] or

2. Comply with a restriction as specified under subdivision 4 b, 5 b, 6 b, 7, or 8 b of 12VAC5-421-90, or subdivision 8, 9, or 10 of 12VAC5-421-90 and comply with the provisions specified under subdivisions 4 through 10 of 12VAC5-421-100.[P]

12VAC5-421-160. When to wash.

Food employees shall clean their hands and exposed portions of their arms as specified under 12VAC5-421-140 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles[P] and:

1. After touching bare human body parts or hair other than clean hands and clean, exposed portions of arms;[P]

2. After using the toilet room;[P]

3. After caring for or handling service animals or aquatic animals as allowed under 12VAC5-421-250 B;[P]

4. Except as specified in 12VAC5-421-220 B, after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco products, eating, or drinking;[P]

5. After handling soiled equipment or utensils;[P]

6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;[P]

7. When switching between working with raw foods and working with ready-to-eat foods;[P]

8. Before donning gloves to initiate a task that involves working with foods;[P] and

9. After engaging in other activities that contaminate the hands.[P]

12VAC5-421-220. Eating, drinking, or using tobacco products.

A. Except as specified in subsection B of this section, an employee shall eat, drink, or use any form of tobacco products only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

B. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

1. The employee's hands;

2. The container; and

3. Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

12VAC5-421-250. Handling of animals prohibited.

A. Except as specified in subsection B of this section, a food ~~employees shall~~ employee may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed under 12VAC5-421-3310 B 2, B 3, ~~and~~ B 4, and B 6.[Pf]

B. ~~Food employees~~ A food employee with a service ~~animals~~ animal may handle or care for ~~their~~ the service ~~animals~~ animal, and a food ~~employees~~ employee may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if ~~they wash their~~ the food employee washes his hands as specified under 12VAC5-421-140 and subdivision 3 of 12VAC5-421-160.

12VAC5-421-270. Compliance with food law.

A. Food shall be obtained from sources that comply with law.[P]

B. Food prepared in a private home shall not be used or offered for human consumption in a food establishment unless the home kitchen is inspected and regulated by the Virginia Department of Agriculture and Consumer Services.~~[P]~~ [Pf]

C. Packaged food shall be labeled as specified in law, including 21 CFR Part 101, 9 CFR Part 317, and Subpart N of 9 CFR Part 381, and as specified under ~~12VAC5-421-400 and~~ 12VAC5-421-410.[Pf]

D. Fish, other than those specified in 12VAC5-421-730 B, that are intended for consumption in raw or undercooked form and allowed as specified in 12VAC5-421-700 D, may be offered for sale or service if they are obtained from a supplier that freezes fish as specified under 12VAC5-421-730 A; or if ~~they~~ the fish are frozen on premises as specified under 12VAC5-421-730 A and records are retained as specified under 12VAC5-421-740.

E. Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 12VAC5-421-700 C shall be:

1. Obtained from a food processing plant that~~, upon request by the purchaser, packages the steaks and labels them to indicate that they meet the definition of~~ does not mechanically tenderize, vacuum tumble with solutions, reconstruct, cube, or pound the whole-muscle, intact beef steaks;[Pf] or

2. Deemed acceptable by the department based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef;[Pf] and

3. If individually cut in a food establishment:

a. Cut from whole-muscle intact beef that is ~~labeled by~~ received from a food processing plant as specified in subdivision 1 of this subsection or identified as specified in subdivision 2 of this subsection;[P] and

b. Prepared so they remain intact~~;[Pf] and c. If packaged for undercooking in a food establishment, labeled as specified in subdivision 1 of this subsection or identified as specified in subdivision 2 of this subsection~~.[Pf]

F. Meat and poultry that is not a ready-to-eat food and is in a packaged form when offered for sale or otherwise offered for consumption shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

G. Eggs that have not been specifically treated to destroy all viable Salmonellae shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

12VAC5-421-400. ~~Shucked~~ Molluscan shellfish, packaging, and identification .

A. ~~Raw shucked~~ Molluscan shellfish shall be obtained in nonreturnable packages or containers that bear a legible tag or label that identifies the:[Pf]

1. ~~The name, address, and certification number of the shucker-packer, or repacker of~~ Source, and is affixed by a dealer who depurates, packs, ships, or reships the molluscan shellfish, as specified in the National Shellfish Sanitation Program Guide for Control of Molluscan Shellfish, 2013 Revision,[Pf] and

2. ~~The "sell~~ "Sell by" or "best if used by" date for shucked shellfish packages with a capacity of less than 64 fluid ounces (1.89L) or the date shucked for packages with a capacity of 64 fluid ounces (1.89L) or more.[Pf]

B. A ~~package~~ container of raw ~~shucked~~ molluscan shellfish that does not bear a tag or label or that bears a tag or label ~~which~~ that does not contain all the information as specified under subsection A of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d), Subpart D.

12VAC5-421-420. Shellstock; condition.

When received by a food establishment, shellstock shall be reasonably free of mud, dead ~~shellfish~~ shellstock, and ~~shellfish~~ shellstock with broken shells. Dead ~~shellfish or~~ shellstock and shellstock with badly broken shells shall be discarded.

12VAC5-421-430. Molluscan shellfish; original container.

A. Except as specified in subsections ~~B,~~ C, ~~and~~ D, and E of this section, molluscan shellfish ~~shall~~ may not be removed from the container in which they were received other than immediately before sale or preparation for service.

B. Molluscan shellfish from one tagged or labeled container may not be commingled with molluscan shellfish from another container with different certification numbers, different harvest dates, or different harvest areas identified on the tag or label before being ordered by the consumer.[Pf]

C. For display purposes, shellstock or in-shell product may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

1. The source of the shellstock or in-shell product on display is identified as specified under ~~12VAC5-421-410~~ 12VAC5-421-400 and recorded as specified under 12VAC5-421-440; and

2. The shellstock or in-shell product are protected from contamination.

~~C.~~ D. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

1. The labeling information for the shellfish on display as specified under 12VAC5-421-400 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

2. The shellfish are protected from contamination.

~~D.~~ E. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

1. The labeling information for the shellfish is on each consumer self-service container as specified under 12VAC5-421-400 and 12VAC5-421-900 A and B 1 through B 5;

2. The labeling information as specified under 12VAC5-421-400 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

3. The labeling information and dates specified under subdivision ~~D~~ 2 of this ~~section~~ subsection are maintained for 90 days; and

4. The shellfish are protected from contamination.

12VAC5-421-440. ~~Shellstock; maintaining~~ Molluscan shellfish; maintain identification.

A. Except as specified under subdivision C 2 of this section, ~~shellstock~~ molluscan shellfish tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.[Pf]

B. The date when the last ~~shellstock~~ molluscan shellfish from the container is sold or served shall be recorded on the tag ~~or~~, label, or invoice.[Pf]

C. The identity of the source of ~~shellstock~~ molluscan shellfish that are sold or served shall be maintained by retaining ~~shellstock~~ product tags ~~or~~, labels, or invoices for 90 calendar days from the date that is recorded on the tag ~~or~~, label, or invoice as specified in subsection B of this section, by:[Pf]

1. Using an approved recordkeeping system that keeps the tags ~~or~~, labels, or invoices in chronological order correlated to the date that is recorded on the tag ~~or~~, label, or invoice as specified under subsection B of this section;[Pf] and

2. If shellstock, shucked shellfish, or in-shell product are removed from ~~its~~ the tagged or labeled container:

a. Preserving source identification by using a recordkeeping system as specified under subdivision C 1 of this section~~,~~;[Pf] and

b. Ensuring that shellstock, ~~or~~ shucked shellfish, or in-shell product from one tagged or labeled container are not commingled with shellstock ~~or~~, shucked shellfish, or in-shell product from another container with different certification numbers, different harvest dates, or different growing areas as identified on the tag or label before being ordered by the consumer.[Pf]

12VAC5-421-445. Food donation.

Food that is stored, prepared, packaged, displayed, and labeled in accordance to law and this chapter may be offered for donation.

12VAC5-421-470. Packaged and unpackaged food - separation, packaging, and segregation.

A. Food shall be protected from ~~cross contamination~~ cross-contamination by:

1. Except as specified in subdivision 1 d of this subsection, or if combined as ingredients, separating raw animal foods during storage, preparation, holding, and display from:

a. Raw ready-to-eat food, including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables;[P]

b. Cooked ready-to-eat food;[P]

c. Fruits and vegetables before they are washed;[P] and

d. Frozen, commercially processed, and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food;

2. Except ~~when~~ if combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

a. Using separate equipment for each type;[P] or

b. Arranging each type of food in equipment so that cross contamination of one type with another is prevented;[P] and

c. Preparing each type of food at different times or in separate areas.[P]

3. Cleaning equipment and utensils as specified under 12VAC5-421-1780 A and sanitizing as specified under 12VAC5-421-1900;

4. Except as specified in subsection B of this section and 12VAC5-421-810 B 2, storing the food in packages, covered containers, or wrappings;

5. Cleaning hermetically sealed containers of food of visible soil before opening;

6. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

7. Storing damaged, spoiled, or recalled food being held in the food establishment as specified under 12VAC5-421-3150; and

8. Separating fruits and vegetables, before they are washed as specified under 12VAC5-421-510 from ready-to-eat food.

B. Subdivision A 4 of this section ~~does~~ shall not apply to:

1. Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption;

2. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

3. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;

4. Food being cooled as specified under 12VAC5-421-810 B 2; or

5. Shellstock.

12VAC5-421-510. Washing fruits and vegetables.

A. Except as specified in subsection B of this section and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

B. Fruits and vegetables may be washed by using chemicals as specified under 12VAC5-421-3390 and a test kit or other device that accurately measures the active ingredient concentration of the fruit and vegetable wash solution may be provided.

C. ~~Devices~~ A device used for onsite generation of chemicals meeting the requirements specified in 21 CFR 173.315 shall be used in accordance with the manufacturer's instructions.[Pf]

12VAC5-421-620. Food storage; prohibited areas.

Food shall not be stored:

1. In locker rooms;

2. In toilet rooms or their vestibules;[Pf]

3. In dressing rooms;

4. In garbage rooms;

5. In mechanical rooms;

6. Under sewer lines that are not shielded to intercept potential drips;

7. Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

8. Under open stairwells; or

9. Under other sources of contamination.

12VAC5-421-700. Raw animal foods.

A. Except as specified in subsections B, C, and D of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

1. 145°F (63°C) or above for 15 seconds for:[P]

a. Raw eggs that are broken and prepared in response to a consumer's order and for immediate service;[P] and

b. ~~Except as~~ Unless otherwise specified ~~under~~ in subdivisions A 2 and A 3 and subsections B and C of this section, fish and intact meat, including game animals commercially raised for food and game animals under a voluntary inspection program as specified under 12VAC5-421-330 A 1;[P]

2. 155°F (68°C) for 17 seconds or the temperature specified in the ~~following chart~~ table in this subdivision that corresponds to the holding time for ratites~~, mechanically tenderized meats, and injected~~ and nonintact meats; ~~the following if they are~~ comminuted~~:~~ fish, ~~meat,~~ game animals commercially raised for food, and game animals under a voluntary inspection program as specified under 12VAC5-421-330 A 1; and raw eggs that are not prepared as specified under subdivision 1 a of this subsection:[P]

Minimum	
Temperature °F (°C)	Time
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	<1 second (instantaneous)

; or

3. 165°F (74°C) or above for less than one second (instantaneous) for poultry~~,~~; baluts~~,~~; wild game animals as specified under 12VAC5-421-330 A 2~~,~~; stuffed fish~~,~~; stuffed meat~~,~~; stuffed pasta~~,~~; stuffed poultry~~,~~; stuffed ratites~~,~~; or stuffing containing fish, meat, poultry, or ratites.[P]

B. Whole meat roasts, including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

1. As specified in the ~~following chart~~ table in this subdivision, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:[P]

Temperature °F (°C)	Time[1] in Minutes	Temperature °F (°C)	Time[1] in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		
144 (62.2)	5		
145 (62.8)	4		
[1]Holding time may include postoven heat rise.			

; and

2. If cooked in an oven, ~~use~~ using an oven that is preheated to the temperature specified for the roast's weight in the ~~following chart~~ table in this subdivision and that is held at that temperature.[Pf]

~~f~~

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or more
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity[1]	250°F (121°C) or less	250°F (121°C) or less
[1]Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.		

C. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

1. The food establishment serves a population that is not a highly susceptible population;

2. The steak is ~~labeled, as specified under 12VAC5-421-270 E, to indicate that it meets the definition of "whole-muscle, intact beef"~~ prepared so that it remains intact; and

3. The steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above and a cooked color change is achieved on all external surfaces.

D. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subsection C of this section, may be served or offered for sale upon request or consumer selection in a ready-to-eat form if:

1. ~~As specified under~~ Pursuant to subdivisions 3 a and 3 b of 12VAC5-421-950, the food establishment serves a population that is not a highly susceptible population; ~~2. The~~ the food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat;[Pf] and ~~3. The~~ the consumer is informed ~~as specified under~~, pursuant to 12VAC5-421-930, that to ensure its safety, the food should be cooked as specified under subsection A or B of this section; or

~~4.~~ 2. The department grants a variance from subsection A or B of this section ~~as specified in~~ pursuant to 12VAC5-421-3570 based on a HACCP plan that:

a. Is submitted by the permit holder and approved ~~as specified under~~ pursuant to 12VAC5-421-3570;

b. Documents scientific data or other information that shows that a lesser time and temperature regimen results in a safe food; and

c. Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

12VAC5-421-726. Manufacturer cooking instructions.

A. Commercially packaged food that bears a manufacturer's cooking instructions shall be cooked according to those instructions before being used in ready-to-eat foods or offered in unpackaged form for human consumption, unless the manufacturer’s instructions specify that the food may be consumed without cooking.[P]

B. Food for which the manufacturer has provided information that it has not been processed to control pathogens, when used in ready-to-eat foods or offered for human consumption, shall be cooked according to a time and temperature appropriate for the food.[P]

12VAC5-421-790. Thawing.

A. Except as specified in subdivision 4 of this subsection, time/temperature control for safety food shall be thawed:

1. Under refrigeration that maintains the food temperature at 41°F (5°C) or less;[Pf]

2. Completely submerged under running water:

a. At a water temperature of 70°F (21°C) or below;[Pf]

b. With sufficient water velocity to agitate and float off loose particles in an overflow;[Pf] and

c. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F (5°C);[Pf] or

d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking ~~as specified under~~ pursuant to 12VAC5-421-700 A or B to be above 41°F (5°C) for more than four hours including:

(1) The time the food is exposed to the running water and the time needed for preparation for cooking;[Pf] or

(2) The time it takes under refrigeration to lower the food temperature to 41°F (5°C);[Pf]

3. As part of a cooking process if the food that is frozen is:

a. Cooked ~~as specified under~~ pursuant to 12VAC5-421-700 A or B ~~or~~, 12VAC5-421-710, or 12VAC5-421-726;[Pf] or

b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process;[Pf] or

4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

B. Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

1. ~~Prior to its~~ Before thawing under refrigeration ~~as specified in~~ pursuant to subdivision A 1 of this section.

2. ~~Prior to,~~ Before or immediately upon completion of~~, its~~ thawing using procedures specified in subdivision A 2 of this section.

12VAC5-421-830. Ready-to-eat, time/temperature control for safety food; date marking.

A. Except ~~when~~ if packaging food using a reduced oxygen packaging method ~~as specified under~~ pursuant to 12VAC5-421-870, and except as specified in ~~subsections~~ subsection E ~~and F~~ of this section, refrigerated ready-to-eat time/temperature control for safety food that is prepared and held in a food establishment for more than 24 hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded ~~when~~ if held at a temperature ~~of~~ at or below 41°F (5°C) ~~or less~~ for a maximum of seven days. The day of preparation shall be counted as day ~~1~~ one.[Pf]

B. Except as specified in subsections E~~,~~ and F~~, and G~~ of this section, refrigerated ready-to-eat, time/temperature control for safety food that is prepared and packaged by a food processing plant shall be clearly marked at the time the original container is opened in a food establishment ~~and if~~. If the food is held for more than 24 hours, ~~to~~ the date marking shall indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in subsection A of this section and:[Pf]

1. The day the original container is opened in the food establishment shall be counted as day ~~1~~ one;[Pf] and

2. The day or date marked by the food establishment shall not exceed a manufacturer's "use by" date if the manufacturer determined the "use by" date based on food safety.[Pf]

C. A refrigerated, ready-to-eat, time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.[Pf]

D. A date marking system that meets the criteria specified in subsections A and B of this section may include:

1. Using a method approved by the department for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft-serve mix or milk in a dispensing machine;

2. Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in subsection A of this section;

3. Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under subsection B of this section; or

4. Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system ~~is~~ shall be disclosed to the department upon request.

E. Subsections A and B of this section ~~do~~ shall not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request or to shellstock.

~~F. Subsections A and B of this section do not apply to shellstock.~~

~~G.~~ F. Subsection B of this section ~~does~~ shall not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

1. Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR Part ~~110~~ 117;

2. Hard cheeses containing not more than 39% moisture as defined in 21 CFR Part 133, such as cheddar, gruyere, parmesan and reggiano, and romano;

3. Semi-soft cheese containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR Part 133, such as blue, edam, gorgonzola, gouda, and monterey jack;

4. Cultured dairy products as defined in 21 CFR Part 131, such as yogurt, sour cream, and buttermilk;

5. Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products as defined in 21 CFR Part 114;

6. Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami; and

7. Shelf stable salt-cured products such as prosciutto and Parma (ham).

12VAC5-421-850. Time as a public health control.

A. Except as specified under subsection D of this section, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service, written procedures shall be prepared in advance, maintained in the food establishment, and made available to the department upon request that specify:[Pf]

1. Methods of compliance with subsection B or C of this section;[Pf] and

2. Methods of compliance with 12VAC5-421-800 for food that is prepared, cooked, and refrigerated before time is used as a public health control.[Pf]

B. If time without temperature control is used as the public health control up to a maximum of four hours:

1. ~~The~~ Unless otherwise specified in subdivision 2 of this subsection, the food shall have an initial temperature of 41°F (5°C) or less when removed from cold holding temperature control or 135°F (57°C) or greater when removed from hot holding temperature control; [P]

2. The food may have an initial temperature of 70°F (21°C) or less if:

a. The food is a ready-to-eat fruit or vegetable that upon cutting is rendered a time/temperature control for safety food; or

b. The food is a ready-to-eat, hermetically sealed food that upon opening is rendered a time/temperature control for safety food;

c. The food temperature does not exceed 70°F (21°C) within a maximum time period of four hours from the time the food was rendered a time/temperature control for safety food; and

d. The food is marked or otherwise identified to indicate the time that is four hours after the food is rendered a time/temperature control for safety food as specified in subdivisions a and b of this subdivision 2.

3. The food shall be marked or otherwise identified to indicate the time that is four hours ~~past the point in time when~~ after the food is removed from temperature control; [Pf]

~~3.~~ 4. The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four hours from ~~the point in time~~ when the food is removed from temperature control;[P] and

~~4. The food~~ 5. Food in unmarked containers or packages~~,~~ or marked to exceed a four-hour limit shall be discarded.[P]

C. If time without temperature control is used as the public health control up to a maximum of six hours:

1. The food shall have an initial temperature of 41ºF (5ºC) or less when removed from temperature control and the food temperature may not exceed 70ºF (21ºC) within ~~a maximum time~~ the six-hour period ~~of six hours~~;[P]

2. The food shall be monitored or an ambient air temperature shall be maintained to ensure that the warmest portion of the food does not exceed 70ºF (21ºC) during the six-hour period~~, unless an ambient air temperature is maintained that ensures the food does not exceed 70ºF (21ºC) during the six-hour holding period~~;[Pf]

3. The food shall be marked or otherwise identified to indicate:[Pf]

a. The time when the food is removed from 41ºF (5ºC) or less cold-holding temperature control,[Pf] and

b. The time that is six hours ~~past the point in time when~~ after the food is removed from 41ºF (5ºC) or less cold-holding temperature control;[Pf]

4. The food shall be:

a. Discarded if the temperature of the ~~foods~~ food exceeds 70ºF (21ºC);[P] or

b. Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six hours from the point in time when the food is removed from 41ºF (5ºC) or less cold-holding temperature control;[P] and

5. The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit shall be discarded.[P]

D. A food establishment that serves a highly susceptible population may not use time as specified under subsection A, B, or C of this section as the public health control for raw eggs.

12VAC5-421-870. Reduced oxygen packaging without a variance, criteria.

A. Except for a food establishment that obtains a variance ~~as specified under~~ pursuant to 12VAC5-421-860, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes.[P]

B. Except as specified under subsection F of this section, a food establishment that packages time/temperature control for safety food using a reduced oxygen method shall implement a HACCP plan that contains the information specified under subdivisions 3 and ~~4~~ 5 of 12VAC5-421-3630 and that:[Pf]

1. Identifies the food to be packaged;[Pf]

2. Except as specified in subsections C, D, and E of this section, requires that the packaged food ~~shall~~ be maintained at 41°F (5°C) or less and meet at least one of the following criteria:[Pf]

a. Has an A_w of 0.91 or less;[Pf]

b. Has a pH of 4.6 or less;[Pf]

c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21 and is received in an intact package;[Pf] or

d. Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables~~.~~;[Pf]

3. Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:[Pf]

a. Maintain the food at 41°F (5°C) or ~~below~~ less;[Pf] and

b. Discard the food if within 30 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;[Pf]

4. Limits the refrigerated shelf life to (i) no more than 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or (ii) the original manufacturer's "sell by" or "use by" date, whichever occurs first;[P]

5. Includes operational procedures that:

a. Prohibit contacting ready-to-eat food with bare hands as specified in 12VAC5-421-450 B;[Pf]

b. Identify a designated work area and the method by which:[Pf]

(1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination;[Pf] and

(2) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation;[Pf] and

c. Delineate cleaning and sanitization procedures for food contact surfaces;[Pf]

6. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:[Pf]

a. Concepts required for safe operation;[Pf]

b. Equipment and facilities;[Pf] and

c. Procedures specified under subdivision B 5 of this section and subdivisions 3 and ~~4~~ 5 of 12VAC5-421-3630;[Pf] and

7. Is provided to the department ~~prior to~~ before implementation ~~as specified under~~ pursuant to 12VAC5-421-3620 B.

C. Except for fish that is frozen before, during, and after packaging and bears a label indicating that it is to be kept frozen until time of use, a food establishment may not package fish using a reduced oxygen packaging method.[P]

D. Except as specified in subsections C and F of this section, a food establishment that packages time/temperature control for safety food using a cook-chill or sous-vide process shall:

1. ~~Provide~~ Submit to the department ~~prior to~~ before implementation a HACCP plan that contains the information ~~as specified under~~ required pursuant to subdivisions 3 and ~~4~~ 5 of 12VAC5-421-3630;[Pf]

2. Ensure the food is:

a. Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the bagged product to another business entity or the consumer;[Pf]

b. Cooked to heat all parts of the food to a temperature and for a time ~~as specified under subsections A, B, and C of~~ pursuant to 12VAC5-421-700 A, B, and C;[P]

c. Protected from contamination before and after cooking ~~as specified in~~ pursuant to 12VAC5-421-450 through 12VAC5-421-765;[P]

d. Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking, and before reaching a temperature below 135°F (57°C);[P]

e. Cooled to 41°F (5°C) in the sealed package ~~as specified under~~ pursuant to 12VAC5-421-800; and:[P]

(1) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within 30 days after the date of packaging;[P]

(2) Held at 41°F (5°C) or less for no more than seven days, at which time the food must be consumed or discarded;[P] ~~or~~

(3) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C), removed from refrigeration equipment that maintains 34°F (1°C) food temperature and then held at 41°F (5°C) or less for no more than seven days not to exceed 30 days from its date of packaging, at which time the food must be consumed or discarded;[P] or

(4) Held frozen with no shelf-life restriction while frozen until consumed or used;[P]

f. Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;[Pf]

g. If transported off site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation;[Pf] and

h. Labeled with the product name and the date packaged;[Pf] ~~and~~

3. Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan, maintained ~~and: a. Made~~, made available to the department upon request~~;~~,[Pf] and ~~b. Held~~ held for six months;[Pf] and

4. Implement written operational procedures as specified under subdivision B 5 of this section and a training program as specified under subdivision B 6 of this section.[Pf]

E. Except as specified under subsection F of this section, a food establishment that packages cheese using a reduced oxygen packaging method shall:

1. Limit the cheeses packaged to those that (i) are commercially manufactured in a food processing plant with no ingredients added in the food establishment and ~~that~~ (ii) meet the Standards of Identity as specified in 21 CFR 133.150, 21 CFR 133.169, or 21 CFR 133.187;[P]

2. Have a HACCP plan that contains the information specified in subdivisions 3 and 4 of 12VAC5-421-3630 and as specified under subdivisions B 1, B 3 a, B 5, and B 6 of this section;[Pf]

3. Label the package on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first;[Pf] and

4. Discard the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.[Pf]

F. A HACCP plan ~~is~~ shall not be required ~~when~~ if a food establishment uses a reduced oxygen packaging method to package time/temperature control for safety food that is always:

1. Labeled with the production time and date;

2. Held at 41°F (5°C) or less during refrigerated storage; and

3. Removed from its packaging in the food establishment within 48 hours after packaging.

12VAC5-421-900. Food labels.

A. Food packaged in a food establishment~~,~~ shall be labeled ~~as specified~~ in accordance with all applicable laws and regulations, including 21 CFR Part 101 and 9 CFR Part 317.

B. Label information shall include:

1. The common name of the food~~,~~ or, absent a common name, an adequately descriptive identity statement;

2. If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors, and chemical preservatives, if contained in the food;

3. An accurate declaration of the net quantity of contents;

4. The name and place of business of the manufacturer, packer, or distributor; ~~and~~

5. The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient;[Pf]

6. Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) through (5), nutrition labeling as specified in 21 CFR Part 101 and 9 CFR Part 317, Subpart B; and

7. For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

C. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

1. The manufacturer's or processor's label that was provided with the food; or

2. A card, sign, or other method of notification that includes the information specified under subdivisions B 1, B 2, B 5, and B 6 of this section.

D. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification shall not need ~~not~~ to be labeled if:

1. A health, nutrient content, or other claim is not made;

2. There are no state or local laws requiring labeling; and

3. The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and

is regulated by the food regulatory agency that has jurisdiction.

12VAC5-421-910. Other forms of information.

A. If required by law, consumer warnings shall be provided.

B. ~~Food establishment~~ No person may conceal or alter a food establishment's or ~~manufacturers'~~ manufacturer's dating information on foods ~~shall not be concealed or altered~~.

C. The permit holder shall notify consumers by written notification of the presence of major food allergens as an ingredient in unpackaged food items that are served or sold to the consumer.

12VAC5-421-950. Pasteurized foods, prohibited reservice, and prohibited food.

In a food establishment that serves a highly susceptible population:

1. The following criteria apply to juice:

a. For the purposes of this ~~paragraph~~ subdivision only, children who are ~~age~~ nine ~~or less~~ years of age or younger and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

b. Prepackaged juice or a prepackaged beverage containing juice that bears a warning label as specified in 21 CFR 101.17(g) or a packaged juice or beverage containing juice that bears a warning label ~~as specified under~~ pursuant to subdivision 2 of 12VAC5-421-765 may not be served or offered for sale;[P] and

c. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information ~~specified in~~ pursuant to subdivisions 3, ~~4, and~~ 5, and 6 of 12VAC5-421-3630 and ~~as specified in~~ pursuant to 21 CFR 120.24.[P]

2. Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:[P]

a. Foods such as Caesar salad, hollandaise or bèarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages;[P] and

b. Except as specified in subdivision 6 of this section, recipes in which more than one egg is broken and the eggs are combined.[P]

3. The following foods shall not be served or offered for sale in a ready-to-eat form:[P]

a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;[P]

b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue;[P] ~~and~~

c. Raw seed sprouts~~.~~;[P] and

d. Packaged food as specified in 12VAC5-421-726.

4. ~~Food employees shall~~ A food employee may not contact ready-to-eat food ~~as specified in~~ pursuant to 12VAC5-421-450 B and E.[P]

5. Time only, as the public health control as specified under 12VAC5-421-850 D, may not be used for raw eggs.[P]

6. Subdivision 2 b of this section ~~does~~ shall not apply if:

a. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 12VAC5-421-700 A 1, and served immediately, such as an omelet, soufflé, or scrambled eggs;

b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

c. The preparation of the food is conducted under a HACCP plan that:

(1) Identifies the food to be prepared;

(2) Prohibits contacting ready-to-eat food with bare hands;

(3) Includes specifications and practices that ensure~~: (a)~~ Salmonella Enteritidis growth is controlled before and after cooking~~;~~ and ~~(b)~~ Salmonella Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 12VAC5-421-700 A 2;

(4) Contains the information ~~specified under~~ required by subdivision 4 of 12VAC5-421-3630 including procedures that:

(a) Control cross contamination of ready-to-eat food with raw eggs; and

(b) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(5) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

7. Except as specified in subdivision 8 of this section, food may be re-served ~~as specified under~~ pursuant to 12VAC5-421-680 B 1 and B 2.

8. Food may not be re-served under the following conditions:

a. ~~Any food~~ Food served to ~~patients or clients who are~~ a patient or client under contact precautions in medical isolation or quarantine~~,~~ or protective environment isolation may not be re-served to others outside.

b. ~~Packages~~ A package of food from ~~any patients, clients~~ a patient, client, or other ~~consumers should~~ consumer may not be re-served to ~~persons~~ a person in protective environment isolation.

12VAC5-421-1435. Food equipment, certification and classification.

Food equipment that is certified or classified for sanitation ~~by an~~ in conformance to a recognized American National Standards Institute (ANSI)-accredited certification program is deemed to comply with the requirements of Articles 1 (12VAC5-421-960 et seq.) and 2 (12VAC5-421-1080 et seq.) of this part.

12VAC5-421-1535. Cleaning agents and sanitizers, availability.

A. ~~Cleaning agents~~ A cleaning agent that ~~are~~ is used to clean equipment and utensils ~~as specified under~~ pursuant to Article 6 (12VAC5-421-1770 et seq.) of this part shall be provided and available for use during all hours of operation.[Pf]

B. Except for a chemical ~~sanitizers~~ sanitizer that ~~are~~ is generated on site at the time of use, a chemical ~~sanitizers~~ sanitizer that ~~are~~ is used to sanitize equipment and utensils ~~as specified under~~ pursuant to Article 7 (12VAC5-421-1885 et seq.) of this part shall be provided and available for use during all hours of operation.[Pf]

12VAC5-421-1540. Equipment, clothes washers and dryers, and storage cabinets, contamination prevention.

A. ~~Except as specified in subsection B of this section, equipment~~ Equipment, cabinets used for the storage of food, or cabinets used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles ~~shall~~ may not be located:

1. In locker rooms, except pursuant to subsection B of this section;

2. In toilet rooms or vestibules;[Pf]

3. In garbage rooms;

4. In mechanical rooms;

5. Under sewer lines that are not shielded to intercept potential drips;

6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

7. Under open stairwells; or

8. Under other sources of contamination.

B. A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

C. If a mechanical clothes washer or dryer is provided, it shall be located only where there is no exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; and so that the washer or dryer is protected from contamination.

12VAC5-421-2010. Prohibitions.

A. ~~Except as specified in subsection B of this section, cleaned~~ Cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles ~~shall~~ may not be stored:

1. In locker rooms, except pursuant to subsection B of this section;

2. In toilet rooms or vestibules;[Pf]

3. In garbage rooms;

4. In mechanical rooms;

5. Under sewer lines that are not shielded to intercept potential drips;

6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

7. Under open stairwells; or

8. Under other sources of contamination.

B. Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

12VAC5-421-2190. Handwashing sinks, water temperature, and flow.

A. A handwashing sink shall be equipped to provide water at a temperature of at least ~~100°F (38°C)~~ 85°F (29.4°C) through a mixing valve or combination faucet.[Pf]

B. A steam mixing valve ~~shall~~ may not be used at a handwashing sink.

C. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

D. An automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

12VAC5-421-3140. Employee accommodations, designated areas.

A. Areas designated for employees to eat, drink, and use tobacco products shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

B. Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles can not occur.

12VAC5-421-3360. Conditions of use.

Poisonous or toxic materials shall be:

1. Used according to:

a. Law and this chapter;

b. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment;[P]

c. The conditions of certification, if certification is required, for use of the pest control materials;[P] and

d. Additional conditions that may be established by the department; and

2. Applied so that:

a. A hazard to employees or other persons is not constituted;[P] and

b. Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and ~~for a restricted-use pesticide this~~ is achieved by:[P]

(1) Removing the items;[P]

(2) Covering the items with impermeable covers;[P] or

(3) Taking other appropriate preventive actions;[P] and

(4) Cleaning and sanitizing equipment and utensils after the application.[P]

3. A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC § 136(e) (Federal Insecticide, Fungicide and Rodenticide Act), or a person under the direct supervision of a certified applicator.[Pf]

12VAC5-421-3370. Poisonous or toxic material containers.

A container previously used to store poisonous or toxic materials ~~shall~~ may not be used to store, transport, or dispense food, equipment, utensils, linens, single-service, or single-use articles.[P]

12VAC5-421-3510. Public health protection.

A. The department shall apply this chapter to promote its underlying purpose, as specified in 12VAC5-421-30, of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer or donated.

B. In enforcing the provisions of this ~~regulation~~ chapter, the department shall assess existing facilities or equipment that were in use before June 10, 2021, based on the following considerations:

1. Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

2. Whether food-contact surfaces comply with 12VAC5-421-960 through 12VAC5-421-1060; and

3. Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 12VAC5-421-1450.

12VAC5-421-3595. Conformance with approved procedures.

If the commissioner or the commissioner's designee grants a variance ~~as specified in~~ pursuant to 12VAC5-421-3570~~,~~ or a HACCP plan is otherwise required ~~as specified under~~ pursuant to 12VAC5-421-3620, the permit holder shall:

1. Maintain the approved variance at the food establishment;[Pf]

2. Comply with the HACCP plans and procedures that are submitted ~~as specified under~~ pursuant to 12VAC5-421-3630 and approved as a basis for the variance;[P] and

~~2.~~ 3. Maintain and, upon request, provide to the department~~, upon request,~~ records specified under subdivisions ~~4 and~~ 5 and 6 c of 12VAC5-421-3630 that demonstrate that the following are routinely employed:

a. Procedures for monitoring the critical control points;[PF]

b. Monitoring of the critical control points;[PF]

c. Verification of the effectiveness of the operation or process;[PF] and

d. Necessary corrective actions if there is failure at the critical control point.[PF]

12VAC5-421-3630. Contents of a HACCP plan.

For a food establishment that is required ~~under~~ to have a HACCP plan pursuant to 12VAC5-421-3620 ~~to have a HACCP plan~~, the permit applicant or permit holder shall submit to the department a properly prepared HACCP plan that includes:

1. General information ~~such as~~, including the name of the permit applicant or permit holder, the food establishment address, and contact information;

2. A categorization of the types of time/temperature control for safety food that is to be controlled under the HACCP plan;[Pf]

3. A flow diagram or chart for each specific food or category type that identifies:

a. Each step in the process,[Pf] and

~~b. The hazards and controls for each step in the flow diagram or chart,~~~~[Pf]~~

~~c.~~ b. The steps that are critical control points~~,~~[Pf]

~~d. The ingredients, materials, and equipment used in the preparation of that food,[Pf] and~~

~~e. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.[Pf]~~

4. The ingredients, recipes or formulations, materials and equipment used in the preparation of each specific food or category type, and the methods and procedural control measures that address the food safety concerns involved;[Pf]

5. A critical control points summary for each specific food or category type that clearly identifies:

a. Each critical control point;[Pf]

b. The significant hazards for each critical control point;[Pf]

c. The critical limits for each critical control point;[Pf]

~~c.~~ d. The method and frequency for monitoring and controlling each critical control point by the designated food employee ~~designated by~~ or the person in charge;[Pf]

~~d.~~ e. The method and frequency for the person in charge or food employee to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;[Pf]

~~e. Action~~ f. The action to be taken by the food employee or person in charge if the critical limits for each critical control point are not met;[Pf] and

~~f.~~ g. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed;[Pf]

~~5.~~ 6. Supporting documents ~~such as~~, including:

a. Food employee and supervisory training plan addressing food safety issues;[Pf]

b. Copies of blank records forms that are necessary to implement the HACCP plan;[Pf]

c. Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal;[Pf] and

~~6.~~ 7. Any other information required by the department.

12VAC5-421-3700. Contents of the application.

The application shall include:

1. The name, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;

2. Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity;

3. A statement specifying whether the food establishment:

a. Is mobile or stationary, and temporary or permanent; and

b. Is an operation that includes one or more of the following:

(1) Prepares, offers for sale, or serves time/temperature control for safety food:

(a) Only to order upon a consumer's request;

(b) In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency; or

(c) Using time as the public health control as specified under 12VAC5-421-850;

(2) Prepares time/temperature control for safety food in advance using a food preparation method that involves two or more steps which may include combining time/temperature control for safety food ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;

(3) Prepares food as specified under subdivision 3 b (2) of this section for delivery to and consumption at a location off the premises of the food establishment where it is prepared;

(4) Prepares food as specified under subdivision 3 b (2) of this section for service to a highly susceptible population;

(5) Prepares only food that is not time/temperature control for safety food; or

(6) Does not prepare, but offers for sale only prepackaged food that is not time/temperature control for safety food;

4. The name, title, address, and telephone number of the person directly responsible for the food establishment;

5. The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under subdivision 4 of this section such as the zone, district, or regional supervisor;

6. The names, titles, and addresses of:

a. The persons comprising the legal ownership as specified under subdivision 2 of this section, including the owners and officers; and

b. The local resident agent if one is required based on the type of legal ownership;

7. A statement signed by the applicant that:

a. Attests to the accuracy of the information provided in the application; and

b. Affirms that the applicant will:

(1) Comply with this chapter; and

(2) Allow the department access to the establishment as specified under 12VAC5-421-3820 and to the records specified under 12VAC5-421-440 and 12VAC5-421-2330 and subdivision ~~4~~ 5 of 12VAC5-421-3630; and

8. Other information required by the department.

12VAC5-421-3860. Documenting information and observations.

The department shall document on an inspection report form:

1. Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 12VAC5-421-3700, inspection date, and other information such as type of water supply and sewage disposal, status of the permit, and personnel certificates that may be required; and

2. Specific factual observations of violative conditions or other deviations from this chapter that require correction by the permit holder including:

a. Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this chapter specified under 12VAC5-421-60;

b. Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under 12VAC5-421-80 B and D;

c. Nonconformance with priority, priority foundation, or core items of this chapter;

d. Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 12VAC5-421-60;

e. Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under subdivision ~~4 f~~ 5 g of 12VAC5-421-3630; and

f. Nonconformance with critical limits of a HACCP plan.

VA.R. Doc. No. R26-7483; Filed June 1, 2026, 11:10 a.m.

TITLE 16. LABOR AND EMPLOYMENT

SAFETY AND HEALTH CODES 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 Safety and Health Codes Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **16VAC25-90. Federal Identical General Industry Standards (amending 16VAC25-90-1910.1200, Appendices A, B, C, D, and F to 16VAC25-90-1910.1200).**

Statutory Authority: § 40.1-22 of the Code of Virginia.

Effective Date: August 28, 2026.

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

Summary:

On January 8, 2026, and February 13, 2026, the federal Occupational Safety and Health Administration (OSHA) issued a second corrections notice and technical amendment to correct errors in a final rule amending the Hazard Communication Standard (HCS) that became effective July 19, 2024. OSHA made corrections to the regulatory text and appendices to the HCS that mainly include classification of hazardous chemicals and information presented on labels and Safety Data Sheets. These final rule corrections include technical changes to numbering, titles, and table descriptions in the appendices of 29 CFR 1910-1200.

Note on Incorporation by Reference: Pursuant to § 2.2-4103 of the Code of Virginia, 29 CFR Part 1910 (Occupational Safety and Health Standards) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the document will not be printed in the Virginia Register of Regulations. A copy of the document is available for inspection at the Department of Labor and Industry, 6606 West Broad Street, Suite 500, Richmond, Virginia 23230, and at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Statement of Final Agency Action: On May 14, 2026, the Safety and Health Codes Board adopted federal OSHA's Final Rule to the Hazard Communication Standard (HCS) Second Correction, as published 91 FR 562 through 598 on January 8, 2026, and OSHAs Final Rule to the Hazard Communication Standard (HCS) Second Correction update as published 91 FR 6760 on February 13, 2026, with the effective date of August 28, 2026.

Federal Terms and State Equivalents: When the regulations as set forth in the revised final rule for Occupational Safety and Health Standards are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department or DOLI
January 8, 2026 February 13, 2026	August 28, 2026

VA.R. Doc. No. R26-8731; Filed July 1, 2026, 10:19 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Final Regulation

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

Title of Regulation: **20VAC5-314. Regulations Governing Interconnection of Small Electrical Generators and Storage (amending 20VAC5-314-10, 20VAC5-314-20, 20VAC5-314-38, 20VAC5-314-39, 20VAC5-314-70, 20VAC5-314-100, 20VAC5-314-150, 20VAC5-314-160, 20VAC5-314-170).**

Statutory Authority: §§ 12.1-13 and 56-578 of the Code of Virginia.

Effective Date: September 1, 2026.

Agency Contact: Mike Cizenski, Deputy Director, Division of Public Utility Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9441, or email mike.cizenski@scc.virginia.gov.

Summary:

The amendments (i) define "distributed energy resources" or "DER," (ii) specify treatment of material modifications to DER interconnection requests, (iii) modify the provisions for dispute resolution applicable to utilities and interconnecting generators, (iv) revise the insurance requirements applicable to DERs, (v) require DERs to follow cybersecurity standards, and (vi) revise schedules.

Changes to the proposed regulation include (i) refining the interconnection procedures for interdependent projects; (ii) clarifying when project downsizing, inverter, and transformer changes and certain energy storage modifications are not considered material modifications; and (iii) clarifying study and restudy procedures, missed deadline notifications, unresolved dispute reporting, and the administrative review of subsequent changes to utility technical interconnection and interoperability requirements.

AT RICHMOND, JUNE 30, 2026

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2023-00069

Ex Parte: In the matter of revising

the Commission's Regulations Governing

Interconnection of Small Electrical Generators

and Storage

ORDER ADOPTING REGULATIONS

On May 8, 2009, the State Corporation Commission (Commission) adopted Regulations Governing Interconnection of Small Electrical Generators, 20VAC5-314-10 et seq. (Interconnection Regulations) in Case No. PUE-2008-00004.[1] The Commission initiated that rulemaking in accordance with Code § 56-578 C, which provides, in part:

> The Commission shall establish interconnection standards to ensure transmission and distribution safety and reliability, which standards shall not be inconsistent with nationally recognized standards acceptable to the Commission. In adopting standards pursuant to this subsection, the Commission shall seek to prevent barriers to new technology and shall not make compliance unduly burdensome and expensive.

On July 29, 2020, in Case No. PUR-2018-00107, the Commission revised the Interconnection Regulations.[2]

On March 3, 2023, in Case No. PUR-2022-00073 - a docket initiated to explore interconnection issues related to utility distribution energy resources (DER) - the Commission determined it would be appropriate to initiate a rulemaking proceeding to examine potential changes to certain topics in the Interconnection Regulations.[3]

As a result, on May 2, 2023, the Commission issued an Order Initiating Rulemaking Proceeding in the present docket to determine whether the Commission's Interconnection Regulations should be revised. As part of its Order Initiating Rulemaking Proceeding, the Commission directed the Commission's Staff (Staff) to: (i) solicit comments from, and to schedule a meeting or meetings (as necessary) with, stakeholders and persons having an interest in the Commission's Interconnection Regulations and the interconnection of small electrical generators and storage in the Commonwealth of Virginia; (ii) consider whether amendments to the Interconnection Regulations on the topics addressed in Case No. PUR-2022-00073 are needed;[4] (iii) develop, with appropriate input from stakeholders and interested persons, a proposal for any revisions, if necessary, to the current Interconnection Regulations; and (iv) prepare and file a report (Report) on its findings and recommendations in this proceeding.

On August 7, 2024, the Commission issued an Order in Case No. PUR-2022-00073 further directing Staff to consider as part of the present docket: (i) updating Schedules 7-9 in 20VAC5-314-170 to include a field specifying a completion date for each study; and (ii) implementing a requirement for utilities to notify developers of any missed study deadlines and provide a new expected deadline.[5] The Commission also directed Staff to propose minimum filing requirements for a Technical Interconnection and Interoperability Requirements (TIIR) document related to the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547.[6]

On January 21, 2025, Staff filed its Report. In its Report, Staff noted that in accordance with the Commission's directive, Staff solicited comments from interested persons regarding the topics addressed in PUR-2022-00073.[7] Staff received written comments from Appalachian Power Company (APCo); Appalachian Voices; Dominion Energy Virginia (Dominion); East Point Energy; Kentucky Utilities/Old Dominion Power; Virginia Distributed

Solar Alliance; and the Virginia Electric Cooperatives (Cooperatives).[8] Staff also received joint comments from the Coalition for Community Solar Access (CCSA), the Solar Energy Industries Association, and the Chesapeake Solar and Storage Association. Staff stated in its Report that it convened working group meetings with interested participants on April 18, 2024, to discuss the comments received and to determine whether amendments to the Interconnection Regulations were necessary, and on May 21, 2024, to discuss cybersecurity. Sixty stakeholders attended the April 18, 2024 meeting, and 30 stakeholders were in attendance at the May 21, 2024 meeting.[9] Based on the input received from the working group participants and commenters, Staff prepared proposed revisions to the Interconnection Regulations (Proposed Rules).

On April 15, 2025, the Commission issued an Order for Notice and Comment in this docket, which: (i) found that the Staff's Proposed Rules should be considered for adoption; (ii) directed that a copy of the Proposed Rules should be sent to the Registrar of Regulations for publication in the Virginia Register of Regulations; (iii) provided any interested person an opportunity to comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules; (iv) and directed Staff to file a response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Rules (Staff Response or Response).

Written comments were received from APCo (APCo Comments), Appalachian Voices (Appalachian Voices Comments), CCSA (CCSA Comments), Collaborative Utility Solutions (CUS Comments), Dominion (Dominion Comments), and the Cooperatives (Cooperatives Comments). No requests for a hearing were received. Staff filed its Response on July 16, 2025.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the revised regulations attached hereto as Appendix A should be adopted as final rules, as discussed herein. In developing these revised regulations, we have reviewed the Proposed Rules and considered and weighed all arguments and comments presented in this proceeding in support of each participant's requests.

Material Modifications

The Interconnection Regulations discuss the types of changes that are considered material modifications to an interconnection request.[10] Several revisions to this section were included in the Proposed Rules.

First, regarding the downsizing of an interconnection request, we find as follows:

> A one-time change reducing the maximum generating capacity of a facility by up to 75% will not be considered a material modification;[11]
>
> This one-time downsizing change will not be considered a material modification if it occurs at a point after the Feasibility Study, but before execution of the System Impact Study Agreement;[12]
>
> If a developer elects to downsize, the Feasibility Study timeline should reset, providing utilities a 30-day window to complete a new study of the downsized project;[13] and
>
> For projects that proceed under a combined study agreement, a one-time downsizing of up to 10% will not be deemed a material modification.[14]

The Proposed Rules also amend when a change in the point of interconnection (POI) constitutes a material modification. Under the Proposed Rules, a change in POI to a new location constitutes a material modification, unless the new POI is within the same protection zone as the original location and the change in POI is agreeable to the utility. We find the proposed language on POI, including the addition of language that POI changes must be agreeable to the utility in order to be deemed non-material, to be reasonable.[15] We concur with Staff that this language provides "necessary flexibility for utility discretion" and that concerns related to a perceived abuse of discretion may be addressed through the Interconnection Regulation's existing dispute resolution process.[16]

Next, the Interconnection Regulations currently state that any change in the direct current (DC) system configuration to include additional equipment that impacts the maximum generating capacity, daily production profile, or the proposed alternating current (AC) configuration of a facility or energy storage system constitutes a material modification.[17] Dominion and Staff support leaving the current language unchanged at this time and recommend establishing a separate docket dedicated to addressing energy storage-related issues.[18] In contrast, CCSA and Appalachian Voices oppose the existing restriction in 20VAC5-314-39 C that prevents changes to a facility's "daily production profile," arguing that this language unnecessarily precludes the addition of DC-coupled storage, even when AC export limits are unchanged.[19] Appalachian Voices claims limiting energy storage to systems that included such storage in their original interconnection request is impractical, especially considering significant interconnection backlogs and the growing deployment of solar-plus-storage systems, and CCSA emphasizes the system benefits of expanded energy storage deployment.[20]

We concur with CCSA and Appalachian Voices that greater flexibility for adding storage without triggering a material modification is appropriate for the reasons listed above. As such, we find that the addition of DC-coupled storage, when AC export limits are unchanged, shall not be considered a material modification.[21]

Next, the Interconnection Regulations currently provide that a change of transformer connections or grounding, or a change to certified inverters with different specifications or different inverter control specifications than originally proposed, represents a material modification to an interconnection request.22 CCSA proposes allowing a one-time equipment modification during the interconnection process, specifically at the stage when the Small Generator Interconnection Agreement (SGIA) is executed.23 CCSA notes that the time between submission of an initial interconnection application and the execution of an SGIA can span several years, during which time inverter models initially selected may be discontinued, increase significantly in cost, or become technologically outdated.24 Given that transformer design is closely tied to inverter selection, CCSA asserts that a change in inverter model will often require updates to transformer specifications as well.25 Conversely, Dominion and Staff recommend retaining the existing language regarding certified inverters as well as transformer connections and grounding.26

We concur with CCSA that given the continually evolving nature of inverter technology and the often significant time between submission of an initial interconnection request and the execution of an SGIA, a one-time modification in inverter and/or transformer design or specification, without such change being considered a material modification, is reasonable.27

Dispute Resolution Process

With regard to the dispute resolution process, we find as follows:

The proposal in the Proposed Rules to toll the specified time periods for an interconnection request during the period in which parties are engaged in a dispute resolution process is reasonable and is adopted;[28]

Establishing an ombudsperson to participate in the dispute resolution process is unnecessary at this time, as the Interconnection Regulations already provide multiple procedures, including both informal and formal options, for the resolution of disputes;[29]

If a dispute remains unresolved after 30 business days, the utility shall provide written notice to Staff.[30]

DER Definitions

There is no disagreement amongst participants concerning the definitions for DERs and Energy Storage Systems included in the Proposed Rules. As such, those definitions are adopted.[31]

Cybersecurity Standards

Dominion, the Cooperatives, Appalachian Voices, APCo, and Staff all provided input on cybersecurity requirements for DER interconnections.[32] There was general alignment between the commenters on the need for minimum cybersecurity standards, though differences on scope, implementation, and flexibility existed.[33] We find that, as set forth in the Proposed Rules, each utility shall establish its own utility-specific minimum cybersecurity standards that are based on, and are not in conflict with, nationally recognized guidelines, including but not limited to: (i) the IEEE Standard 1547.3 - Guide for Cybersecurity of Distributed Energy Resources Interconnected with Electric Power Systems (2023), and (ii) the National Association of Regulatory Utility Commissioners' Cybersecurity Baselines for Electric Distribution Systems and DERs.[34] We concur with Dominion that these national standards are appropriate sources for minimum cybersecurity requirements for interconnections at the distribution level, and that utilities should retain flexibility to implement more stringent standards if necessary.[35]

We decline to change the language in the Proposed Rules to "based on, and not to materially exceed, nationally recognized guidelines," as suggested by Appalachian Voices.[36] We concur with Staff that the amendments to the Interconnection Regulations should not establish a ceiling that prevents a utility from developing effective security capabilities or hampers its ability to manage emerging cyber threats and vulnerabilities.[37] However, we do direct utilities to implement standards, to the extent possible, that are not unduly burdensome or costly for interconnection customers.[38]

Finally, APCo asserts that developing and coordinating standards will take time and effort.[39] We find that utilities shall, within 18 months of the date of this Order, develop cybersecurity standards, including an associated implementation plan with milestones for interconnection customers to achieve compliance with the standards.[40]

Updates to Schedules 7-9

The Proposed Rules include revisions to subsections C through E of 20VAC5-314-70 to require utilities to: (i) notify developers no later than five business days before a deadline if the utility anticipates missing the deadline; and (ii) provide the new expected completion date. Correspondingly, proposed changes to Schedules 7-9 in 20VAC5-314-170 added a completion date for each study. Dominion, Appalachian Voices, CCSA, and Staff all generally support these proposed revisions.[41] Dominion, however, recommends amending the proposed language in subsections C through E of 20VAC5-314-70 to require utilities to "provide the new expected completion date to the extent the information is available."[42] We adopt the revisions to 20VAC5-314-70 and 20VAC5-314-170, with Dominion's proposed change.

Appalachian Voices and CCSA support the inclusion of deadlines, but suggest that deadlines without enforcement are insufficient.[43] Appalachian Voices recommends financial penalties for missed interconnection study deadlines and CCSA recommends the adoption of a timeline enforcement mechanism (TEM) where utility performance is assessed based on the average time taken to process interconnection applications.[44] We decline to establish monetary penalties or establish a TEM at this time as part of the Interconnection Regulations.[45] However, we acknowledge the concerns raised by CCSA and Appalachian Voices. We note that certain utilities (collectively, "Phase I and Phase II Utilities) must file biennial reviews pursuant to Code § 56-585.1 A, which include a review of the utility's generating plant performance, customer service, and operating efficiency when setting the utility's rate of return on equity.[46] As such, parties are invited to bring evidence as to a Phase I or Phase II Utility's performance in this regard in a future biennial review proceeding.

TIIR

Participants generally support the creation of a TIIR document, though they differ on the scope of the document and the process for approving and updating the document.[47] With regard to TIIR requirements, we find as follows:

As supported by Dominion, the Cooperatives, CCSA and Staff, we find that every investor-owned electric utility and electric cooperative in the Commonwealth shall develop a utility-specific TIIR document that outlines key interconnection settings and protocols;[48]

Each TIIR shall include, at a minimum: (i) voltage and frequency trip settings; (ii) frequency drop settings; (iii) activated reactive power control function and settings; (iv) voltage-active power mode activation and settings; (v) enter service settings; and (vi) communication protocols and port requirements.[49] A range of acceptable values may be included in a utility's TIIR document to address differences in location;[50]

Each investor-owned electric utility and electric cooperative in the Commonwealth must submit a TIIR document to the Commission for approval,[51] and, once approved, each shall make its TIIR document publicly available on its website;[52]

Any subsequent changes to TIIR documents shall be submitted to Staff for administrative review. Staff shall review the proposed changes administratively; however, if any proposed change appears to be material, Staff shall subsequently recommend that a formal approval process, including an opportunity for comments from interested persons, be conducted;[53] and

Each investor-owned electric utility and electric cooperative must file their initial TIIR document within nine (9) months of the date of this Order. These TIIR documents shall be filed in the present docket.

Miscellaneous

Several additional matters were raised by commenters in this case.[54] While we have reviewed and considered the arguments and requests concerning these matters, we do not find that the Interconnection Regulations should be further amended at this time beyond the changes discussed above and included in Appendix A.

Accordingly, IT IS ORDERED THAT:

(1) The Regulations Governing Interconnection of Small Electrical Generators and Storage, as shown in Appendix A to this Order, are hereby adopted and are effective as of September 1, 2026.

(2) The Commission's Office of General Counsel forthwith shall send a copy of this Final Order and the attached regulations to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(3) A copy of this Final Order and the attached regulations forthwith shall be posted on the website of the Division of Public Utility Regulation. In addition, the Staff of the Division of Public Utility Regulation shall email a copy of the Final Order and attached regulations to all persons and entities who participated in the workgroup meetings held to receive input on the regulations or filed comments in this docket.

(4) The Clerk of the Commission hereby is directed to serve a copy of the attached regulations on every investor-owned electric utility and electric cooperative in the Commonwealth, who shall forthwith thereafter notify all their interconnection customers.

(5) This case is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter and to all persons on the official Service List in Case No. PUR-2022-00073. The Service Lists are available from the Clerk of the Commission.

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[1]Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of establishing interconnection standards for distributed electric generation, Case No. PUE-2008-00004, 2009 S.C.C. Ann. Rept. 287, Order Adopting Regulations (May 8, 2009).

[2]Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of revising the Commission's Regulations Governing Interconnection of Small Electrical Generators, Case No. PUR-2018-00107, 2020 S.C.C. Ann. Rept. 226, Order Adopting Regulations (July 29, 2020). In its Order Adopting Regulations, the Commission revised the title of the chapter to be "Regulations Governing Interconnection of Small Electrical Generators and Storage."

[3]Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter considering utility distributed energy resource interconnection-related issues and questions, Case No. PUR-2022-00073, Doc. Con. Cen. No. 230310110, Order (Mar. 3, 2023).

[4]These topics include: (i) language concerning material modifications; (ii) language concerning dispute resolutions; (iii) insurance requirements for Level 1 Interconnections; (iv) cybersecurity; (v) the definition of DER; and (vi) DER performance standards. Id. at 9-10.

[5]Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter considering utility distributed energy resource interconnection-related issues and questions, Case No. PUR-2022-00073, Doc. Con. Cen. No. 240820139, Order Directing Evidentiary Proceeding, Pilot and Improvements to the Interconnection Process (Aug. 7, 2024).

[6]Id. at 12-13.

[7]Report at 2.

[8]Id. at 3.

[9]Id.

[10]See 20VAC5-314-39.

[11]See, e.g., Appalachian Voices Comments at 4 (stating, "Appalachian Voices supports Staff's revision to the material modification section to allow a developer to make a one-time downsizing change of up to 75%. . . ."); Dominion Comments at 3 (stating, Dominion "does not oppose Staff's proposed revision to the material modification section of the Interconnection Regulations to allow a developer to make a one-time downsizing change of up to 75%"); Cooperatives Comments at 7 (stating, "the Cooperatives believe that this will ultimately be helpful; however, a 75% reduction in a project's size while maintaining its queue position may ultimately create more problems for other projects and the solar industry"); and CCSA Comments at 2-3 (stating, "This rule change offers essential flexibility to developers as they respond to project site constraints or unanticipated distribution system upgrade costs during the pre-development study process"); Staff Response at 6 (stating, "Staff maintains its position that the one-time downsizing cap should be up to 75%"). Though certain commenters suggest: (i) there should be no limit on the percentage a project can downsize; or (ii) an alternative modification option through a "connect and manage" arrangement should also be approved, we decline to adopt such recommendations at this time. See, e.g., CCSA Comments at 3; Appalachian Voices Comments at 4-9.

[12]See, e.g., Dominion Comments at 3-4 (stating, Dominion "respectfully requests that if a developer makes a one-time downsizing change of up to 75% that the change occur prior to the developer requesting the System Impact Study Agreement and after the Feasibility Study has been completed"); Cooperatives Comments at 7 (stating, "Furthermore, the Cooperatives agree with [Dominion] that any change be timed to precede the System Impact Study and follow the Feasibility Study"); CCSA Comments at 3 (stating, "CCSA recommends moving the downsizing decision point from the Facilities Study Agreement to the System Impact Study Agreement"); Staff Comments at 6-7 (stating, "Staff supports shifting the decision point for a developer to make a one-time downsizing change from after the System Impact Study, as was originally recommended in the Staff Report, to a point after the Feasibility Study but before execution of the System Impact Study Agreement"). This change would impact the situations where a Project B is studied in parallel with Project A. The Project B developer shall not be required to sign the System Impact Study Agreement first, thereby losing its chance to downsize. See Staff Response at 7.

[13]See, e.g., Dominion Comments at 4; Cooperatives Comments at 7; Staff Response at 7.

[14]See, e.g., Dominion Comments at 3-5; Cooperatives Comments at 7; Staff Response at 7-8. The existing language in the Interconnection Regulations already permits such a reduction. See 20VAC5-314-39.

[15]See, e.g., Appalachian Voices at 9; Dominion Comments at 5; Staff Response at 8-9; CCSA Comments at 4.

[16]See Staff Response at 8-9.

[17]See 20VAC5-314-39 C.

[18]See, e.g., Dominion Comments at 5-6; Staff Response at 10.

[19]See, e.g., CCSA Comments at 4-5; Appalachian Voices Comments at 9-10.

[20]See, e.g., Appalachian Voices Comments at 9-10; CCSA Comments at 4-5.

[21]To implement this amendment, we find that the "daily production profile" language in the Interconnection Regulations shall be removed. The decision to add storage, without triggering a material modification, would need to occur at a point after the Feasibility Study, but before execution of the System Impact Study Agreement. Should a developer wish to reduce the size of a facility in conjunction with the addition of energy storage, such change, in order not to be considered a material modification, must comply with the limitations on downsizing discussed herein.

[22]See 20VAC5-314-39 B 4 and 5.

[23]See CCSA Comments at 5-6. As part of this change, CCSA recommends striking 20VAC5-314-39 B 4 and 5. See id. at 5.

[24]Id. at 5.

[25]Id.

[26]See, e.g., Dominion Comments at 6; Staff Response at 11.

[27]Such change must involve Underwriters Laboratories 1741 certified inverters and must occur before the SGIA is executed. Changes from certified to uncertified inverter models shall continue to be considered a material modification.

[28]No commenter opposes the proposal. See, e.g., Dominion Comments at 6-7; Cooperatives Comments at 8; CCSA Comments at 7-8; Appalachian Voices Comments at 11; Staff Response at 12-13.

[29]See, e.g., CCSA Comments at 7-8 (stating, "CCSA continues to encourage the Commission to adopt a more robust dispute resolution process that includes the establishment of a Distributed Generation Ombudsperson within the Commission [which] would create a single point of contact through which customers can obtain information and seek advice on the proper steps to take to resolve issues and can also fulfill a role of mediating disputes between parties. . . ."); Dominion Comments at 6 (stating, "Staff concludes that an ombudsperson is unnecessary at this time as the existing rules allow parties to seek resolution through the Division of Public Utility Regulation or through a dispute resolution service. The Company agrees."); Staff Response at 13 (stating, "Staff maintains its position that establishing an ombudsperson may be premature and is not necessary at this time").

[30]See, e.g., Dominion Comments at 6 (stating, "the notification process after 20 business days will result in additional reporting requirements for the Company, prolong the dispute resolution process, and take Staff's time to resolve issues for which the regulations already provide clear guidelines for utility and the Interconnection Customer to use in pursuit of a resolution"); Staff Response at 13 ("Staff also continues to support the requirement for utilities to provide written notification to Staff if a dispute remains unresolved, since doing so provides Staff with greater visibility into issues within the interconnection process"). We find that there is value in Staff receiving this additional information. To provide parties additional time to resolve disputes before notifying Staff, we find that 30 business days, rather than 20 days, is appropriate.

[31]See, e.g., Dominion Comments at 10; Appalachian Voices Comments at 12; Cooperatives Comments at 7; Staff Comments at 17. The Cooperatives also recommend including a definition for "Bulk Electric System." We decline to include this definition at this time, since the term does not currently appear elsewhere in the Interconnection Regulations.

[32]See, e.g., Dominion Comments at 8-10; APCo Comments at 2; Appalachian Voices Comments at 11-12; Cooperatives Comments at 6; Staff Comments at 14-16.

[33]See, e.g., Dominion Comments at 8-10; APCo Comments at 2; Appalachian Voices Comments at 11-12; Cooperatives Comments at 6; Staff Comments at 14-16.

[34]The Cooperatives expressed concern that the cybersecurity requirements may create duplicative or conflicting requirements as between state and national standards. See Cooperatives Comments at 6. As Staff notes, the cybersecurity standards in the Interconnection Regulations are guidelines intended to harmonize utilities' minimum cybersecurity standards with other national guidelines. See Staff Response at 16.

[35]See Dominion Comments at 9-10.

[36]See Appalachian Voices Comments at 12.

[37]See Staff Response at 16.

[38]See, e.g., Appalachian Voices Comments at 11; Staff Response at 16.

[39]See APCo Comments at 2.

[40]We further direct each utility to publish its standards on its respective website.

[41]Dominion Comments at 10-12; CCSA Comments at 6-7; Appalachian Voices Comments at 12-14; Staff Response at 17-20.

[42]Dominion Comments at 11 (emphasis omitted). Dominion states that this proposed edit would account for circumstances in which a utility cannot reliably estimate a new study completion date due to factors beyond its control. Id.

[43]See, e.g., Appalachian Comments at 12-14; CCSA Comments at 6-7.

[44]See, e.g., Appalachian Comments at 13-14; CCSA Comments at 7. CCSA additionally recommends establishing a quarterly interconnection reporting process. See CCSA Comments at 6. We concur with Staff that this request is addressed through the directive set forth in Case No. PUR-2022-00073 for each electric utility to submit quarterly updates on its DER interconnection activity. See Staff Response at 20.

[45]We note that in Case No. PUR-2022-00073, the Commission similarly declined to establish monetary penalties for delays in study completion because "study timelines could be affected by a variety of different factors, including certain factors outside of both the utility's and interconnection customer's control." See Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter considering utility distributed energy resource interconnection-related issues and questions, Case No. PUR-2022-00073, Doc. Con. Cen. No. 240820139, Order Directing Evidentiary Proceeding, Pilot and Improvements to the Interconnection Process at 12-13 (Aug. 7, 2024).

[46]See Code § 56-585.1 A 2 c.

[47]See Staff Response at 20.

[48]See, e.g., Dominion Comments at 12-13; Cooperatives Comments at 3-5; CCSA Comments at 8-11; Staff Comments at 20-26. APCo does not appear to oppose the development of such a TIIR. See APCo Comments at 1. Appalachian Voices does not take a position on whether TIIRs are needed, but supports Commission oversight over the TIIR submissions. See Appalachian Voices Comments at 15. At this time, we do not find the creation of a technical advisory group to be necessary for the development of the TIIR documents. See CCSA Comments at 8.

[49]See, e.g., Proposed Rules; Staff Response at 20.

[50]See, e.g., Dominion Comments at 12. At this time, we do not require TIIR documents to include additional information on broader technical

interconnection and grid integration issues. See CCSA Comments at 8-9. Nor do we choose to adopt performance criteria concerning inverter-based resources as part of the TIIR or require TIIR documents to reflect a risk-based approach to islanding mitigation. See CCSA Comments at 10. We note, however, that the Proposed Rules establish only the minimum information that must be included in TIIR documents. Nothing in the Proposed Rules prohibits utilities from including additional information as part of their TIIR submissions.

[51]The Commission will provide interested persons with the opportunity to comment on the proposed TIIR documents.

[52]We note that should a utility deem it necessary to redact a public-facing TIIR document, the Commission has existing processes and procedures to handle confidential or sensitive information. Further, if a document must be redacted, the utility should implement a process to make an unredacted version available upon request to developers. See Cooperatives Comments at 4.

[53]See, e.g., APCo Comments at 1; Cooperatives Comments at 4-5; Staff Response at 24-25. We note that this approach is similar to how Staff conducts administrative reviews for certain utility tariff filings. See Staff Response at 24.

[54]See, e.g., APCo Comments at 2-3; CUS Comments at 1-5. With regard to the Cooperatives request for clarification as to whether future changes to IEEE 1547 will be automatically incorporated into the Interconnection Regulations, we concur with Staff that the documents included in regulations are not subject to automatic updates when new standards are released. See Cooperative Comments at 3; Staff Response at 26.

20VAC5-314-10. Applicability and scope; waiver.

A. This chapter is promulgated pursuant to § 56-578 of the Virginia Electric Utility Regulation Act (§ 56-576 et seq. of the Code of Virginia). This chapter establishes standardized interconnection and operating requirements for the safe operation of electric generating facilities in Virginia. This chapter applies to utilities providing interconnections to retail electric customers, independently owned generators, and any other parties operating, or intending to operate, a distributed generating facility in parallel with utility systems. This chapter also applies to equipment used for the storage of electricity for later injection to utility systems. This chapter does not apply to customer generators operating pursuant to the Virginia State Corporation Commission's Regulations Governing Net Energy Metering (20VAC5-315) or those that fall under the jurisdiction of the Federal Energy Regulatory Commission (FERC).

If the utility has turned over control of its transmission system to a Regional Transmission Entity (RTE), and if the small generator interconnection process identifies upgrades to the transmission system as necessary to interconnect the small generating facility, then the utility will coordinate with the RTE, and the procedures in this chapter will be adjusted as necessary to satisfy the RTE's requirements with respect to such upgrades.

There are three review paths for the interconnection of generating facilities subject to this chapter in Virginia:

Level 1 - A request to interconnect a certified small generating facility (SGF) no larger than 500 kilowatts (kW) shall be evaluated under the Level 1 process.

Level 2 - A request to interconnect a certified SGF no larger than 2 MW and not qualifying for the Level 1 process shall be evaluated under the Level 2 process.

Level 3 - A request to interconnect an SGF not qualifying for the Level 1 process or Level 2 process, shall be evaluated under the Level 3 process.

The utility may place restrictions upon the interconnection of an SGF to a distribution feeder depending upon the characteristics of that feeder and the potential for upgrading it, as well as the nature of the loads and other generation on the feeder relative to the proposed point of interconnection. If the SGF cannot be safely and reliably interconnected to the utility's distribution feeder, the utility shall work with the interconnection customer (IC) to interconnect the SGF to the utility's transmission system. In such cases, the interconnection of the SGF may be governed by the regulations promulgated by FERC rather than the regulation of the Virginia State Corporation Commission.

The utility shall designate an employee or office from which the IC may request information concerning the interconnection application process. The name, telephone number, and email address of such contact employee or office shall be made available on the utility's website. Readily available electric system information relevant to the location of the proposed SGF shall be provided to the IC upon request, in writing, and may include interconnection studies and any other relevant materials, to the extent such provision does not violate confidentiality provisions of prior agreements or release critical infrastructure information. The utility shall comply with reasonable requests for such information unless the information is proprietary or confidential and cannot be provided pursuant to a prior confidentiality agreement. If the information is proprietary or confidential and cannot be provided, the utility shall state as such. Any one developer shall have no more than five active informal requests for information at one time.

The utility shall make reasonable efforts to meet all timeframes provided in these regulations unless the utility and the IC agree to a different schedule. If the utility cannot meet a deadline provided in this chapter, it shall notify the IC in writing, explain the reason for the failure to meet the deadline, and provide an estimated time by which it will complete the applicable interconnection procedure in the process.

Should an IC fail to meet a timeframe or default on another requirement under this chapter or fail to respond to a request for information from the utility, the utility shall also provide the IC written notice identifying the missed deadline or requirement and allow the IC an opportunity to cure on or before the close of business on the 10th business day following the posted date of such notice to cure, prior to the utility taking action to withdraw the IC's interconnection request.

Each utility shall have on file with the commission terms and conditions applicable to the interconnection of SGFs. Such terms and conditions shall, at a minimum, incorporate this chapter by reference, shall set forth terms and conditions applicable to SGFs for which no Small Generator Interconnection Agreement (SGIA) is executed, and shall not conflict with the provisions of this chapter. The terms and conditions applicable to SGFs for which no SGIA is executed shall be reasonably consistent with the terms and conditions of the SGIA.

B. The commission may waive any or all parts of the provisions of this chapter for good cause shown.

C. This chapter shall not apply to SGFs already interconnected as of October 15, 2020, unless:

1. The IC proposes a material modification; or

2. Application of this chapter is agreed to in writing by the utility and the IC.

D. This chapter shall apply if the IC has not actually interconnected the SGF as of October 15, 2020.

Any IC that has not executed an interconnection agreement with the utility prior to October 15, 2020, shall have 30 calendar days following the later of October 15, 2020, or the posted date of notice in writing from the utility to (i) demonstrate site control pursuant to Schedule 5 or 6 of 20VAC5-314-170; (ii) execute a combined study agreement as provided for in 20VAC5-314-70 or individual revised study agreements conforming with those set forth in Schedules 7, 8, and 9 of 20VAC5-314-170; and (iii) to post the deposit as specified in Schedule 6 of 20VAC5-314-170 minus any study costs previously paid.

Any IC that has executed an interconnection agreement with the utility prior to October 15, 2020, but where the utility has not actually interconnected the SGF or where the IC has not begun making payments, shall have 60 calendar days following the later of October 15, 2020, or the posted date of notice in writing from the utility to submit upgrade and interconnection facility payments (or financial security acceptable to the utility for attachment facilities and distribution upgrades) required pursuant to 20VAC5-314-50 F 2. Any amount previously paid by the IC at the time the deposit or payment is due under this subsection shall be credited toward the deposit amount or other payment required under this subsection.

Should an IC fail to comply with the provisions of this subsection following receipt of a written notice specifying how the IC failed to comply and the expiration of an opportunity to cure by the close of business on the 10th business day following the posted date of such notice to cure, the IC will lose its queue number and the interconnection request shall be deemed withdrawn.

E. Each SGF shall comply with IEEE 1547 Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces, 2018, and shall conform with the following minimum requirements:

1. Abnormal operating performance category: Category III capabilities must be supported for inverter-based SGFs. Rotating SGFs must meet Category I capabilities; and

2. Normal operating performance category: inverter-based SGFs must meet Category B capabilities and rotating SGFs must meet Category A capabilities.

F. Each utility shall post the utility's preferred settings in the utility's public-facing technical interconnection and interoperability requirements (TIIR) document. TIIR documents shall be submitted to the commission for approval with opportunity for public comment. Subsequent changes to TIIRs shall also be submitted to the [~~commission~~ Division of Public Utility Regulation] for [~~approval with opportunity for public comment~~ administrative review]. At a minimum, the following shall be identified in the TIIR documents: (i) voltage and frequency trip settings, (ii) frequency drop settings, (iii) activated reactive power control function and settings, (iv) voltage-active power mode activation and settings, (v) enter service settings, and (vi) communication protocols and ports requirements.

G. Each utility shall establish the utility's own utility-specific minimum cybersecurity standards based on, and not in conflict with, nationally recognized guidelines, including IEEE Standard 1547.3, Guide for Cybersecurity of Distributed Energy Resources Interconnected with Electric Power Systems, 2023, and the National Association of Regulatory Utility Commissioners' Cybersecurity Baselines for Electric Distribution Systems and DERs. These standards shall also include requirements for testing, validation, and auditing of the implemented cybersecurity measures. Each utility shall ensure these standards are publicly accessible by publishing these standards on the utility's respective websites.

20VAC5-314-20. Definitions.

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

"Affected system" means an electric utility system other than that of the utility that may be affected by the proposed interconnection.

"Affected system operator" means an entity that operates an affected system or, if the affected system is under the operational control of an independent system operator or a regional transmission entity, such independent entity.

"Applicable laws and regulations" means all duly promulgated applicable federal, state, and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits, and other duly authorized actions of any government authority.

"Attachment facilities" means the facilities and equipment owned, operated, and maintained by the utility that are built new in order to physically connect the customer's interconnection facilities to the utility system. Attachment facilities shall not include distribution upgrades or previously existing distribution and transmission facilities.

"Bulk power system" means any electric generation resources, transmission lines, interconnections with neighboring systems, and associated equipment.

"Business day" means Monday through Friday, excluding federal holidays.

"Calendar day" means Sunday through Saturday, including all holidays.

"Certified" has the meaning ascribed to it in Schedule 2 of 20VAC5-314-170.

"Commission" means the Virginia State Corporation Commission.

"Customer's interconnection facilities" means all of the facilities and equipment owned, operated, and maintained by the IC, between the small generating facility and the point of interconnection necessary to physically and electrically interconnect the small generating facility to the utility system.

"Default" means the failure of a breaching party to cure its breach under the SGIA.

"Distribution system" means the utility's facilities and equipment generally delivering electricity to ultimate customers from substations supplied by higher voltages (usually at transmission level). For purposes of this chapter, all portions of the utility's transmission system regulated by the commission for which interconnections are not within FERC jurisdiction are considered also to be subject to this chapter.

"Distributed energy resource" or "DER" means a source of electric power that is not directly connected to the bulk power system. A DER includes both generators and energy storage facilities operating in parallel to the distribution system and capable of exporting active power to an electric power system.

"Distribution upgrades" means the additions, modifications, and enhancements made to the utility's distribution system on the utility's side of the point of interconnection necessary to ensure continued system reliability and power quality on the utility's distribution system caused by the interconnection of the SGF. Distribution upgrades do not include network upgrades or the customer's interconnection facilities or the utility's attachment facilities.

"Electric power system" means a facility that delivers electric power to a load.

"Energy storage system" has the meaning ascribed to it in 20VAC5-335-20.

"Facilities study" has the meaning ascribed to it in 20VAC5-314-70 E.

"Feasibility study" has the meaning ascribed to it in 20VAC5-314-70 C.

"FERC" means the Federal Energy Regulatory Commission.

"Good Utility Practice" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods, and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost, consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to include practices, methods, or acts generally accepted in the region.

"Governmental authority" means any federal, state, local, or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided that such term does not include the IC, the utility, or a utility affiliate.

"Interconnection customer" or "IC" means any entity proposing to interconnect a new small generating facility with the utility system.

"Interconnection request" means the IC's request, in accordance with this chapter, to interconnect a new small generating facility, or to increase the capacity of, or make a material modification to the operating characteristics of, an existing small generating facility that is interconnected with the utility system.

"Interconnection studies" means the studies conducted by the utility, or, if agreed to by the utility and the IC, a third party supervised by the utility, in order to determine the interaction of the small generating facility with the utility system and the affected systems in order to specify any modifications to the small generating facility or the electric systems studied to ensure safe and reliable operation of the small generating facility in parallel with the utility system.

"Interdependent customer" or "interdependent project" means an IC or project whose upgrades to the utility system or attachment facilities are impacted by another earlier-queued generating facility, as determined by the utility.

"Material modification" has the meaning ascribed to it in 20VAC5-314-39.

"Maximum generating capacity" means the maximum continuous electrical output of the SGF at any time as measured at the point of interconnection or the maximum kW delivered to the utility during any metering period, whichever is greater. Requested maximum generating capacity will be specified by the IC in the interconnection request and an approved maximum generating capacity will subsequently be included as a limitation in the interconnection agreement.

"Network upgrades" means additions, modifications, and enhancements to the utility's transmission system that are required in order to accommodate the interconnection of the small generating facility with the utility's system. Network upgrades do not include distribution upgrades.

"Operating requirements" means any operating and technical requirements that may be applicable due to regional transmission entity, independent system operator, control area, or the utility's requirements, including those set forth in the SGIA.

"Party" means the utility or the IC.

"Point of interconnection" means the point where the customer's interconnection facilities connect physically and electrically to the utility's system.

"Processing fee" means a nonrefundable cost to administer or file an application.

"Project A" means any interconnection request that is not interdependent with another interconnection request.

"Project B" means any interconnection request that is interdependent with only one other interconnection request and has a higher queue number than a designated Project A.

"Queue number" refers to the number assigned by the utility, establishing a customer's interconnection request position in the study queue relative to all other valid interconnection requests. A lower queue number will be studied prior to a higher queue number, except in the case of interdependent projects.

"Regional Transmission Entity" or "RTE" means an entity having the management and control of a utility's transmission system as further set forth in § 56-579 of the Code of Virginia.

"Small generating facility" or "generating facility" or "generator" or "SGF" means the IC's equipment used for the production of electricity, as identified in the interconnection request.

"Small Generator Interconnection Agreement" or "SGIA" means the agreement between the utility and the IC as set forth in Schedule 10 of 20VAC5-314-170.

"Standby generating facility" means an electric generating facility primarily designed for standby or backup power in the event of a loss of power supply from the utility. Such facilities may operate in parallel with the utility for a brief period of time when transferring load back to the utility after an outage, or when testing the operation of the facility and transferring load from and back to the utility.

"Supplemental review" has the meaning ascribed to it in 20VAC5-314-60 H.

"System" or "utility system" means the distribution and transmission facilities owned, controlled, or operated by the utility that are used to deliver electricity.

"System impact study" has the meaning ascribed to in 20VAC5-314-70 D.

"System upgrades" means distribution upgrades and network upgrades collectively.

"Tariff" means the rates, terms, and conditions filed by the utility with the commission for the purpose of providing commission-regulated electric service to retail customers.

"Technical interconnection and interoperability requirements" or "TIIR" means the public documents, often utility specific, that include requirements for interconnection, interoperability, capabilities, their utilization (settings), and grid integration.

"Transmission system" means the utility's facilities and equipment delivering electric energy to the distribution system, such facilities being operated at voltage levels above the utility's typical distribution system voltage levels.

"Utility" means the public utility company subject to regulation by the commission pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia with regard to rates or service quality, to whose system the IC proposes to interconnect a small generating facility.

20VAC5-314-38. Queue number and interdependent projects.

A. Queue number and queue position. The utility shall assign a queue number to an interconnection request based upon the date-stamp and time-stamp of receipt of a completed Interconnection Request Form by the utility. A later received Interconnection Request Form shall be assigned a higher numerical queue number than an earlier received Interconnection Request Form. The queue number and relative position of each interconnection request will be used to determine the cost responsibility for the upgrades necessary to accommodate the interconnection.

B. Interdependent projects.

1. Upon an IC's submission of an interconnection request for the 20VAC5-314-40 Level 1 interconnection process, 20VAC5-314-60 Level 2 interconnection process, or 20VAC5-314-70 Level 3 interconnection process, the utility shall review the interconnection request and make a

preliminary determination of whether any interdependencies exist between the IC's proposed SGF and any other IC with a lower queue number. If the interconnection request is for a standby SGF with zero export, then the proposed SGF shall be studied as a Project A. For all other interconnections, any preliminary determination by the utility that the SGF does not create an interdependency will result in the interconnection request being preliminarily designated as a Project A, and the utility shall proceed immediately to either the 20VAC5-314-40, 20VAC5-314-60, or 20VAC5-314-70 Level 1, 2, or 3 study process, as applicable. At the 20VAC5-314-70 B scoping meeting, the utility shall advise the IC regarding its preliminary determination of whether interdependency would be created by the SGF. If no 20VAC5-314-70 B scoping meeting is scheduled, then the utility shall notify the IC in writing within five business days after making its preliminary determination of whether interdependency would be created by the SGF. If applicable, the Project A IC will pay the interconnection request study deposit required for the 20VAC5-314-70 Level 3 study process as identified in Schedule 6 of 20VAC5-314-170 in conjunction with the execution of the initial study agreement delivered by the utility pursuant to 20VAC5-314-70. An SGF preliminarily reviewed for system impacts and designated as a Project A may still be determined later to create an interdependency and may then be redesignated by the utility as an interdependent project during the 20VAC314-70 D system impact study process, thereby losing its Project A designation. Once the system impact study report is issued by the utility and the report designates an SGF as a Project A for purposes of the 20VAC314-70 E facilities study, the interconnection request shall retain this Project A designation during the facilities study, without change.

2. If the utility determines that the IC's proposed SGF is interdependent with one other interconnection request with a lower queue number (i.e., an earlier submitted interconnection request), the utility shall notify the IC in writing or at the 20VAC5-314-70 B scoping meeting that the interconnection request is designated as a Project B.

a. Following the 20VAC5-314-70 B scoping meeting, the Project B IC shall then have the option to either:

(1) Wait without further advancement of the interconnection request until Project A has executed a final interconnection agreement and begun making payments for any required upgrades, customer interconnection facilities, and other charges under 20VAC314-50 F. Under this option, Project B is not required to adhere to the timeline in 20VAC5-314-70 C until Project A has signed an SGIA and begun making payments or withdrawn its interconnection request; or

(2) ~~Proceed~~ Wait without further advancement of the interconnection request until Project A has received the [~~Facilities~~ System Impact] Study Agreement pursuant to ~~the~~ 20VAC314-70 D ~~system impact study process~~ [~~10~~ 1]. If the Project B IC chooses this option, the utility shall provide the Project B IC a Feasibility Study Agreement pursuant to 20VAC5-314-70 C or a System Impact Study Agreement pursuant to 20VAC5-314-70 D within 10 business days. If the Project B IC signs a [~~System Impact~~ Feasibility] Study Agreement and pays the interconnection request study deposit pursuant to Schedule 6 of 20VAC5-314-170, the Project B shall receive a [~~system impact~~ feasibility] study report that assumes the Project A interconnection request with the lower queue number completes construction and interconnection, and another [~~system impact~~ feasibility] study report that assumes the Project A interconnect request with the lower queue number is not constructed and is withdrawn. [Upon receipt of the feasibility study reports pursuant to 20VAC5-314-70 C or the determination that a feasibility study is not required, if the Project B IC signs a System Impact Study Agreement and pays the interconnection request study deposit pursuant to Schedule 6 of 20VAC5-314-170, the Project B shall receive a system impact study report that assumes the Project A interconnection request with the lower queue number completes construction and interconnection, and another system impact study report that assumes the Project A interconnect request with the lower queue number is not constructed and is withdrawn.] The Project B IC is responsible for all costs for studying with and without Project A.

b. The utility shall not proceed to a Project B facilities study until after the Project B IC returns a signed Facilities Study Agreement to the utility and the utility has issued the 20VAC314-70 E facilities study report for Project A. Once the Project A facilities study report has been issued, the Project B IC shall then have the option to either:

(1) Wait without further advancement of the interconnection request until Project A has executed a final interconnection agreement and begun making payments for any required upgrades, customer interconnection facilities, and other charges under 20VAC314-50 F. Under this option, Project B is not required to adhere to the timeline in 20VAC5-314-70 E until Project A has signed an SGIA and begun making payments or withdrawn its interconnection request; or

(2) Proceed with a 20VAC314-70 E facilities study process. If the Project B IC chooses this option, the utility shall provide the Project B IC a Facilities Study Agreement pursuant to 20VAC5-314-70 E within 10 business days. If the Project B IC signs a Facilities Study Agreement prior to Project A committing to construction by signing the final interconnection agreement and beginning to make payments, then Project B's facilities study shall assume that the Project A interconnection request with the lower queue number will complete construction and interconnection. If Project A is later

canceled prior to the Project A IC making payment for the required upgrades, the utility shall revise the Project B facilities study at the Project B IC's expense.

3. If the utility determines that the IC's proposed SGF is interdependent with more than one other interconnection request with a lower queue number (i.e., an earlier submitted interconnection request), the utility shall notify the IC at the 20VAC5-314-70 B scoping meeting and describe generally the number and type of interdependencies of interconnection requests with lower queue numbers.

a. The utility shall not study a project if it is interdependent with more than one earlier queued project. The utility will study a project when interdependency with only one earlier queued project exists. The removal of interdependency with multiple projects may be the result of (i) upgrades to the utility system that eliminate the cause of the interdependency, (ii) withdrawal of interdependent projects with lower queue numbers, or (iii) a lower queue number project signing an interconnection agreement and making payments identified in their SGIA.

b. Within five business days of an interconnection request becoming a Project B interconnection request that is interdependent with only one other interconnection request with a lower queue number, the utility shall schedule the 20VAC5-314-70 B scoping meeting and provide the new Project B IC the options specified in subdivision 2 a of this subsection. Upon being designated by the utility as a Project B, the IC's queue number shall be used to determine the order in which the interconnection request is studied under 20VAC314-70 D relative to all other interconnection requests.

C. Interconnection requests submitted prior to October 15, 2020. Other than as set forth in 20VAC5-314-10 C, nothing in this chapter affects an IC's queue number assigned before October 15, 2020. Interconnection requests that have received a system impact study report as of October 15, 2020, that did not identify any interdependency with another project shall be deemed a Project A. Any interconnection requests for which the utility has not completed the system impact study and issued a system impact study report (or combined study report, as applicable) to the IC as of October 15, 2020, shall be reviewed for interdependency pursuant to this section.

Should an IC fail to comply with 20VAC5-314-10 C following receipt of written notice specifying how the IC failed to comply and the expiration of an opportunity to cure by the close of business on the 10th business day following the posted date of such notice to cure, the IC shall lose its queue number and the interconnection request shall be deemed withdrawn.

20VAC5-314-39. Modification of the interconnection request.

A. As used in this chapter, "material modification" means a modification to machine data or equipment configuration or to the interconnection site of the SGF that has a material impact on the cost, timing, or design of any customer interconnection facilities or upgrades or that may adversely impact other interdependent interconnection requests with higher queue numbers. Material modifications include certain project revisions as defined in subsection B of this section, but exclude certain project revisions as defined in subsection C of this section.

B. Changes that qualify as material modifications are described as follows:

1. A change in point of interconnection to a new location, unless ~~the change in a point of interconnection is on the same circuit less than two poles away from the original location, and~~ the new point of interconnection is within the same protection zone as the original location and the change in the point of interconnection is agreeable to the utility;

2. A change or replacement of generating equipment, such as generators, inverters, transformers, relaying, or controls, that is not a like-kind substitution in size, ratings, impedances, efficiencies, or capabilities of the equipment specified in the original or preceding interconnection request [, except as permitted under subsection C 4 of this section];

3. A change from certified to noncertified devices ("Certified" means certified by an Occupational Safety and Health Administration recognized Nationally Recognized Test Laboratory, to relevant Underwriters Laboratories and Institute of Electrical and Electronics Engineers standards, authorized to perform tests to such standards.);

4. A change of transformer connections or grounding from that originally proposed [, except as permitted under subdivision C 4 of this section];

5. A change to certified inverters with different specifications or different inverter control specifications or set-up than originally proposed [, except as permitted under subdivision C 4 of this section];

6. An increase of the maximum generating capacity of an SGF; or

7. A change reducing the maximum generating capacity of the SGF (i) by more than ~~25% before the Feasibility Study Agreement or Combined Study Agreement has been executed~~ the amount specified in subdivision C 3 of this section [~~or~~,] (ii) ~~by more than 10% after the Feasibility Study Agreement or Combined Study Agreement has been executed~~ through more than one request [, or (iii) by more than 10% after the Combined Study Agreement has been executed].

C. Changes that do not qualify as material modifications are described as follows:

1. A change in ownership of an SGF; the new owner, however, will be required to execute a new Interconnection

Request Form and study agreements for any study that has not been completed and the report issued by the utility;

2. A change or replacement of generating equipment, such as generators, inverters, solar panels, transformers, relaying, or controls, that is a like-kind substitution in size, ratings, impedances, efficiencies, or capabilities of the equipment specified in the original or preceding interconnection request;

3. A one-time change reducing the maximum generating capacity of the SGF by up to 75% before the [~~Facilities~~ System Impact] Study Agreement;

4. [A one-time change of certified inverters and transformer design, provided that (i) the inverters remain UL 1741 certified, (ii) the change does not increase the maximum AC output capability of the generating facility, and (iii) any associated transformer specification changes are limited to those required to accommodate the updated inverter model;

5.] An increase in the DC/AC ratio that does not increase the maximum AC output capability of the generating facility;

~~4.~~ [~~5.~~ 6.] A decrease in the DC/AC ratio that does not reduce the AC output capability of the generating facility by more than the amount specified in [~~subdivision~~ subdivisions B 7 and] C 3 of this section.

~~5.~~ [~~6.~~ 7.] A change in the DC system configuration to include additional equipment that does not impact the maximum generating capacity [~~, daily production profile,~~] or the proposed AC configuration of the SGF or energy storage ~~device~~ system, including DC optimizers, DC-DC converters, DC charge controllers, powerplant controllers, and energy storage ~~devices~~ systems such that the output is delivered during the same periods and with the same profile considered during the system impact study.

D. To the extent an IC proposes to modify any information provided in the interconnection request deemed complete by the utility, the IC shall submit any such modifications to the utility in writing. If the utility determines that the proposed modifications constitute a material modification, the utility shall notify the IC in writing within 10 business days that the modification is a material modification, and the interconnection request shall be withdrawn from the queue unless the IC withdraws the proposed material modification within 10 business days of receipt of the utility's written notification. If the modification is determined by the utility not to be a material modification, then the utility shall notify the IC in writing that the modification has been accepted and that the IC shall retain its queue number. An IC may seek an informal determination from the utility of whether a proposed modification constitutes a material modification in accordance with subdivision E of this section.

E. Modification inquiry.

1. Prior to making any modification, the IC may submit an informal modification inquiry in writing that requests the utility to evaluate whether the proposed modifications to the original or most recent interconnection request is a material modification. The IC shall provide specific details on all changes that are to be considered by the utility.

2. In response to IC's informal request, if the utility evaluates the proposed modifications and determines that the changes are not material modifications, the utility shall inform the IC in writing within 10 business days. If the IC wishes to proceed with the proposed modifications, the IC shall submit a revised Interconnection Request Form that reflects the approved modifications.

20VAC5-314-70. Level 3 interconnection process.

A. The Level 3 interconnection process shall be used by an IC proposing to interconnect an SGF with the utility system if the SGF does not pass or qualify for the Level 1 or Level 2 interconnection processes. As needed, a scoping meeting, feasibility study, system impact study, and facilities study shall precede the preparation of an SGIA (Schedule 10 of 20VAC5-314-170). Any of the studies may be combined by mutual, written agreement of the parties along with payment of applicable interconnection study deposit, set forth in Schedule 6 of 20VAC5-314-170. Such agreement for a combined study shall, at a minimum, include milestones for completion. The combined study timeframes and fees shall not exceed the aggregate timeframes and fees of the individual studies as specified in this section. To maintain its position in the utility's interconnection queue, the IC must execute the agreement for combined study, return it to the utility, and pay the interconnection request study deposit set forth in Schedule 6 of 20VAC5-314-170 within 15 business days after receipt of the agreement. If the IC fails to return the executed agreement for combined study or make the full payment of the interconnection request study deposit within 15 business days after receipt of the agreement, the interconnection request shall be deemed withdrawn, and the interconnection request shall lose its place in the utility's interconnection queue.

B. Scoping meeting.

1. The purpose of the scoping meeting is to discuss the interconnection request and the utility's preliminary interdependency determination. The parties shall discuss the studies potentially required to safely and reliably interconnect the IC to the utility's system, including the cost responsibilities for the studies.

2. A scoping meeting shall be held no later than 10 business days after the Interconnection Request Form is deemed complete or as otherwise mutually agreed to in writing by the parties. The utility and the IC shall bring to the meeting all resources as may be reasonably required to accomplish the purpose of the meeting, such as system engineers and other personnel.

3. The scoping meeting may be omitted by mutual, written agreement of the parties.

C. Feasibility study.

1. If the parties agree that a feasibility study should be performed, the utility shall provide the IC with a Feasibility Study Agreement (Schedule 7 of 20VAC5-314-170), including an outline of the scope of the feasibility study and an estimate of the cost to perform the study, no later than 10 business days after the scoping meeting or 10 business days after the decision is made to not have a scoping meeting and otherwise pursuant to subsection D of this section.

If the parties agree to not perform a feasibility study, the utility shall provide the IC a System Impact Study Agreement (Schedule 8 of 20VAC5-314-170) including an outline of the scope of the study and an estimate of the cost to perform the study no later than 10 business days after the scoping meeting or five business days after the decision is made to not have a scoping meeting.

2. To maintain its position in the utility's interconnection queue, the IC must execute the Feasibility Study Agreement, return it to the utility, and pay the interconnection request study deposit set forth in Schedule 6 of 20VAC5-314-170 within 15 business days after receipt of the agreement. If the IC fails to return the executed Feasibility Study Agreement or make the full payment of the interconnection request study deposit within 15 business days after receipt of the agreement, the interconnection request shall be deemed withdrawn and the interconnection request shall lose its place in the utility's interconnection queue.

3. A feasibility study shall identify any potential adverse system impacts that would result from the interconnection of the SGF.

4. Feasibility study costs will be deducted from the interconnection request study deposit pursuant to Schedule 7 of 20VAC5-314-170.

5. The feasibility study shall be based on the technical information provided by the IC in the Interconnection Request Form, as may be modified as the result of the scoping meeting. The utility reserves the right to request additional technical information from the IC as may reasonably become necessary consistent with Good Utility Practice during the course of the feasibility study and as designated in accordance with the standard small generator interconnection procedures. All modifications made to the interconnection request shall be made in writing to the utility. If the IC submits a modification to its interconnection request in writing and the utility determines the modification is not a material modification, the time to complete the feasibility study may be extended by mutual, written agreement of the parties.

6. In performing the feasibility study, the utility shall rely, to the extent reasonably practicable, on recent studies. The IC shall not be charged for such existing studies; however, the IC shall be responsible for charges associated with any new study or modifications to existing studies that are reasonably necessary to perform the feasibility study.

7. The feasibility study report shall provide the following analyses for the purpose of identifying any potential adverse system impacts that would result from the interconnection of the SGF:

a. Initial identification of any circuit breaker short circuit capability limits exceeded;

b. Initial identification of any thermal overload or voltage limit violations;

c. Initial review of grounding requirements and electric system protection; and

d. Description and estimated cost of facilities and estimated construction time required to interconnect the SGF and to address the identified short circuit and power flow issues.

8. The feasibility study shall model the impact of the SGF for all purposes identified in the Interconnection Request Form in order to avoid the further expense and interruption of operation for reexamination of feasibility and impacts if the IC later changes the purpose for which the SGF is being installed.

9. The feasibility study shall include a determination of the feasibility of all potential points of interconnection for an SGF at the specified site as requested by the IC and shall be at the IC's cost.

10. A feasibility study report shall be prepared and transmitted to the IC within 30 business days of the utility's receipt of the complete executed Feasibility Study Agreement and required deposit. If the utility expects to miss the 30-business-day deadline, the utility must notify the IC in writing at least five business days before the deadline and provide a new expected completion date [to the extent the information is available].

11. If the feasibility study shows no potential for adverse system impacts, then within 10 business days of the completion of the study, the utility shall send the IC either an SGIA (Schedule 10 of 20VAC5-314-170) or a Facilities Study Agreement (Schedule 9 of 20VAC5-314-170), including an outline of the scope of the facilities study and an estimate of the cost to perform the study.

12. If the feasibility study shows potential for adverse system impacts, [the IC can request a one-time change reducing the maximum generating capacity according to the amount specified in 20VAC-5-314-39 C 3 or] the review process shall proceed to the system impact study. [The IC is responsible for all costs in the restudies required for the

downsized SGF. If restudy is requested, the utility shall have an additional 30 business days to prepare and transmit the updated feasibility study report pursuant to 20VAC5-314-39 C 10.]

D. System impact study.

1. No later than 10 business days after the parties agree that a system impact study should be performed, the utility shall provide the IC a System Impact Study Agreement (Schedule 8 of 20VAC5-314-170), including an outline of the scope of the system impact study and an estimate of the cost to perform the study.

2. To maintain its position in the utility's interconnection queue, the IC must execute the System Impact Study Agreement, return it to the utility, and if applicable, pay the interconnection request study deposit set forth in Schedule 6 of 20VAC5-314-170 within 15 business days after receipt of the agreement. If the IC fails to return the executed System Impact Study Agreement or make the full payment of the applicable interconnection request study deposit within 15 business days after receipt of the agreement, the interconnection request shall be deemed withdrawn, and the interconnection request shall lose its place in the utility's interconnection queue.

3. System impact study costs will be deducted from the interconnection request study deposit pursuant to Schedule 8 of 20VAC5-314-170.

4. A system impact study shall identify and detail the electric system impacts that would result if the SGF were interconnected without project modifications or electric system modifications, including addressing any adverse electric system impacts identified in the feasibility study or in the scoping meeting. A system impact study shall evaluate the impact of the proposed interconnection on the reliability of the electric system.

5. A system impact study will be based upon the results of the feasibility study, if applicable, and the technical information provided by the IC in the interconnection request. The utility reserves the right to request additional technical information from the IC as may reasonably become necessary consistent with Good Utility Practice during the course of the system impact study. If the IC modifies its designated point of interconnection or interconnection request or the technical information provided in the connection request, the time to complete the system impact study may be extended by written, mutual agreement.

6. A system impact study shall consist of a study of the potentially impacted transmission and distribution systems, a short circuit analysis, a stability analysis, a power flow analysis, voltage drop and flicker studies, grounding reviews, distribution load flow study, analysis of equipment interrupting ratings, protection coordination study, communications study, and impacts on electric system operation, as necessary. A system impact study shall state the assumptions upon which it is based, state the results of the analyses, and provide the requirement or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. A system impact study shall provide a list of facilities and modifications that would be required as a result of the interconnection along with estimates of cost responsibility and time to construct. If arranged with the utility prior to the utility preparing the System Impact Study Agreement, the system impact study may, at the IC's cost, include one or more alternatives to the point of interconnection; however, such alternative points must be on the same distribution circuit as the point of interconnection the IC specified as the proposed point of interconnection and the SGF must be at the same site.

7. Affected systems may participate in the preparation of a system impact study, with a division of costs among such entities as they may agree. All affected systems shall be afforded an opportunity to review and comment upon a system impact study that covers potential adverse system impacts on their electric systems, and the utility has 20 additional business days to complete a system impact study requiring review by affected systems.

8. If the utility uses a queuing procedure for sorting or prioritizing projects and their associated cost responsibilities for any required network upgrades, the system impact study shall consider all generating facilities, and with respect to clause iii of this subdivision, any identified upgrades associated with such higher queued interconnection) that, on the date the system impact study is commenced are (i) directly interconnected with the utility system or (ii) interconnected with affected systems and may have an impact on the proposed interconnection and (iii) have a pending higher queued interconnection request to interconnect with the utility system.

9. A system impact study, if required, shall be completed and the results transmitted to the IC within 45 business days after the System Impact Study Agreement is signed by the parties. If the utility expects to miss the 45-business-day deadline, the utility must notify the IC in writing at least five business days before the deadline and provide a new expected completion date [to the extent the information is available].

10. If the system impact study shows that facility modifications are needed to accommodate the SGF, then within 10 business days following transmittal of the system impact study report, [~~the IC may request a one-time change reducing the maximum generating capacity according to the amount specified in 20VAC5-314-39 C 3 or~~] the utility shall send the IC a Facilities Study Agreement (Schedule 9 of

20VAC5-314-170), including an outline of the scope of the study and an estimate of the cost to perform the study. [~~The IC is responsible for all costs for the restudies required for the downsized SGF.~~]

E. Facilities study.

1. The facilities study shall specify and estimate the cost of the equipment, engineering, procurement, and construction work needed to implement the conclusion of the feasibility impact study or system impact study and to allow the SGF to be interconnected and operate safely and reliably.

2. To maintain its position in the utility's interconnection queue, the IC must execute the Facilities Study Agreement and return it to the utility and, if applicable, pay the interconnection request study deposit set forth in Schedule 6 of 20VAC5-314-170 within 30 business days after receipt of the agreement, unless an extension has been agreed to in writing with the utility. Otherwise, the interconnection request shall be deemed withdrawn, and the interconnection request shall lose its place in the utility's interconnection queue.

3. Facilities study costs will be deducted from the interconnection request deposit pursuant to Schedule 9 of 20VAC5-314-170.

4. Design for any required customer's interconnection facilities, attachment facilities, or upgrades shall be performed under the facilities study. The utility may contract with consultants to perform activities required under the facilities study. The IC and the utility may agree in writing to allow the IC to separately arrange for the design of some of the customer's interconnection facilities. In such cases, facilities design will be reviewed or modified prior to acceptance by the utility, under the provisions of the facilities study. If the parties agree to separately arrange for design and construction, and provided security and confidentiality requirements can be met, the utility shall make sufficient information available to the IC in accordance with confidentiality and critical infrastructure requirements, to permit the IC to obtain an independent design and cost estimate for any necessary facilities.

5. The facilities study shall identify (i) the electrical switching configuration of the equipment, including transformer, switchgear, meters, and other station equipment; (ii) the nature and estimated cost of the attachment facilities and distribution upgrades necessary to accomplish the interconnection; and (iii) an estimate of the time required to complete the construction and installation of such facilities.

6. The utility may propose to group facilities required for more than one IC in order to minimize facilities costs through economies of scale, but any IC may direct the utility to install those facilities required for only the IC's own SGF if it pays the costs of those facilities.

7. In cases where system upgrades are required, the utility shall transmit the facilities study report within 45 business days after receipt of the completed Facilities Study Agreement. In cases where no system upgrades are necessary and the required facilities are limited to the IC's interconnection facilities and attachment facilities only, the utility shall transmit the facilities study report within 30 business days after receipt of the completed Facilities Study Agreement. If the utility expects to miss the 45-business-day or 30-business-day deadline, the utility must notify the IC in writing at least five business days before the deadline and provide a new expected completion date [to the extent the information is available].

F. Construction planning meeting.

1. Within 15 business days of receipt of the report for the final study (i.e., the facilities study or, if applicable, a combined study that satisfies all study requirements), the IC shall request a construction planning meeting where failure to comply shall result in the interconnection request being deemed withdrawn. The construction planning meeting request shall be in writing and shall include the IC's reasonably requested date for completion of the construction of the customer's interconnection facilities and upgrades.

2. The construction planning meeting shall be scheduled within 15 business days of the request from the IC as stated in subdivision F 1 of this section, or as otherwise mutually agreed to in writing by the parties.

3. The purpose of the construction planning meeting is to identify the tasks for each party and discuss and determine the milestones for the construction of the system upgrades and attachment facilities. Agreed upon milestones shall be specific as to scope of action, responsible party, and dates of deliverables and shall be recorded in the SGIA (see Schedule 10 of 20VAC5-314-170) to be provided to the IC.

G. Small Generator Interconnection Agreement. No later than 10 business days after the construction planning meeting, the utility shall provide the IC an executable SGIA as set forth in 20VAC5-314-50 F (Schedule 10 of 20VAC5-314-170).

20VAC5-314-100. Disputes.

A. The parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this section.

B. In the event of a dispute, either party shall provide the other party with a written notice of dispute. The notice shall describe in detail the nature of the dispute. The parties shall make a good faith effort to resolve the dispute informally within 10 business days.

C. If the dispute has not been resolved within 10 business days after receipt of the notice, either party may seek resolution assistance from the Division of Public Utility Regulation where the matter will be handled as an informal complaint.

Alternatively, the parties may, upon mutual agreement, seek resolution through the assistance of a dispute resolution service. The dispute resolution service will assist the parties in either resolving the dispute or in selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the parties in resolving their dispute. Each party shall conduct all negotiations in good faith and shall be responsible for one-half of any costs paid to neutral third parties.

D. If the dispute remains unresolved, either party may petition the commission to handle the dispute as a formal complaint or may exercise whatever rights and remedies it may have in equity or law.

E. The specified time periods for the interconnection request shall be tolled during the period in which the parties are engaged in any of the dispute resolution processes described in this section. Tolling shall commence upon the initiation of a dispute resolution process and shall end upon the termination of such process. This tolling ensures that neither party is prejudiced by the time taken to resolve the dispute through informal or formal mechanisms. If the dispute remains unresolved after [~~20~~ 30] business days, the utility shall provide a written notice to commission staff at the Division of Public Utility Regulation.

20VAC5-314-150. Capacity of the small generating facility.

A. If the interconnection request is for an increase in capacity for an existing SGF, the interconnection request shall be evaluated on the basis of the new total capacity of the SGF.

B. If the interconnection request is for a facility that includes multiple energy production or energy storage ~~devices~~ systems at a site for which the IC seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the maximum generating capacity of the facility.

C. The interconnection request shall be evaluated using the maximum capacity that the SGF is capable of injecting into the utility's electric system. However, if the maximum generating capacity that the SGF is capable of injecting into the utility's electric system is limited (e.g., through use of a control system, power relays, or other similar device settings or adjustments), then the IC must obtain the utility's agreement, with such agreement not to be unreasonably withheld, that the manner in which the IC proposes to implement such a limit will not adversely affect the safety and reliability of the utility's system. If the utility does not so agree, then the interconnection request must be withdrawn or revised to specify the maximum capacity that the SGF is capable of injecting into the utility's electric system without such limitations. Nothing in this section shall prevent a utility from considering an output higher than the limited output, if appropriate, when evaluating system protection impacts.

20VAC5-314-160. Insurance, liability, and indemnification.

A. For an SGF with a rated capacity not exceeding 10 kW, the IC, at its own expense, shall secure and maintain in effect during the term of the agreement, liability insurance with a combined single limit for bodily injury and property damage of not less than $100,000 for each occurrence.

For an SGF with a rated capacity exceeding 10 kW but not exceeding 500 kW, the IC, at its own expense, shall secure and maintain in effect during the term of the agreement, liability insurance with a combined single limit for bodily injury and property damage of not less than $300,000 for each occurrence.

For an SGF with a rated capacity exceeding 500 kW, the IC, at its own expense, shall secure and maintain in effect during the term of the agreement, liability insurance with a combined single limit for bodily injury and property damage of not less than $2 million for each occurrence.

An IC of sufficient creditworthiness, as determined by the utility, may propose to provide this insurance via a self-insurance program if it has a self-insurance program established in accordance with commercially acceptable risk management practices, and such a proposal shall not be reasonably rejected.

B. ~~Certificates of insurance evidencing the requisite coverage and provision shall be furnished to the utility prior to the date of interconnection of the SGF, as required by the utility.~~ The utility shall be permitted to periodically obtain proof of current insurance coverage from the IC in order to verify continuing proper liability insurance coverage. The utility reserves the right to refuse to commence or continue interconnected operations unless evidence is provided that required insurance coverage is in effect at all times.

C. Utility and IC liability to the other party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney fees, relating to or arising from any act or omission pursuant to this chapter shall be limited to the amount of direct damage actually incurred. In no event shall either party be liable to the other party for any indirect, special, incidental, consequential, or punitive damages of any kind.

D. The utility and the IC shall at all times indemnify, defend, and save the other party harmless from any damages; losses; claims, including claims and actions relating to injury or death of any person or damage to property; demand; suits; recoveries; costs and expenses; court costs; attorney fees; and all other obligations by or to third parties arising out of or resulting from the other party's action or inaction of its obligations pursuant to this chapter on behalf of the indemnifying party, except in cases of gross negligence or intentional wrongdoing by the indemnified party.

20VAC5-314-170. Schedules for Chapter 314.

The following schedules shall be used in the administration of this chapter.

EDITOR'S NOTE: Schedules 1 through 6 are not amended since the proposed stage; therefore, the text of those schedules are not set out. Find the proposed regulation at 41:9 VA.R. 2153-2186 May 5, 2025.

Schedule 7

LEVEL 3 FEASIBILITY STUDY AGREEMENT FOR SMALL GENERATING FACILITIES

This Agreement is made and entered into this _____day of ________20___ by and between ____________________________________, a ____________________________organized and existing under the laws of the state of ________________________, ("Interconnection Customer,") and ____________________________________, a ________________existing under the laws of the state of_________________________________, ("Utility"). Interconnection Customer and Utility each may be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Interconnection Customer is proposing to develop an SGF or generating capacity addition to an existing SGF consistent with the interconnection request completed by Interconnection Customer on________________________; and

WHEREAS, Interconnection Customer desires to interconnect the SGF with the Utility's system; and

WHEREAS, Interconnection Customer has requested the Utility to perform a feasibility study to assess the feasibility of interconnecting the proposed SGF with the Utility's system, and of any affected systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained in this Agreement the Parties agreed as follows:

1.0 The terms defined in Schedule 1 of 20VAC5-314-170 shall apply to this Schedule 7 of 20VAC 5-314-170.

2.0 The Interconnection Customer elects and the Utility shall cause to be performed an interconnection feasibility study consistent with the standard small generator interconnection procedures.

3.0 The scope of the feasibility study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 Feasibility study costs will be deducted from the interconnection request study deposit, as set forth in Schedule 6 of 20VAC5-314-170.

4.1 Study cost shall be the Utility's actual incremental costs and will be invoiced to the Interconnection Customer no later than 60 business days after the study is completed and delivered and will include a summary of professional time. Actual study costs may be reconciled during the final accounting process described in Article 6 of the Interconnection Agreement, as applicable.

4.2 The Interconnection Customer shall pay any study costs that exceed the deposit within 20 business days after receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Utility shall refund the excess within 20 business days of the invoice without interest unless additional studies are required.

5.0 The feasibility study shall be based on the technical information provided by the Interconnection Customer in the interconnection request, as may be modified as the result of the scoping meeting. The Utility reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the feasibility study and as designated in accordance with the standard small generator interconnection procedures. If the information requested by the Utility is not provided by the Interconnection Customer within a reasonable timeframe to be identified by the Utility in writing, the Utility shall provide the Interconnection Customer written notice providing an opportunity to cure such failure by the close of business on the 10th business day following the posted date of such notice, where failure to provide the information requested within this period shall result in the study being terminated and the interconnection request being deemed withdrawn. The period of time for the Utility to complete the feasibility study shall be tolled during any period that the Utility has requested information in writing from the Interconnection Customer necessary to complete the study and such request is outstanding.

6.0 In performing the study, the Utility shall rely, to the extent reasonably practicable, on recent studies. The Interconnection Customer shall not be charged for such existing studies; however, the Interconnection Customer shall be responsible for charges associated with any new study or modifications to existing studies that are reasonably necessary to perform the feasibility study.

7.0 The feasibility study report shall provide the following analyses for the purpose of identifying any potential adverse system impacts that would result from the interconnection of the SGF as proposed:

7.1 Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

7.2 Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;

7.3 Initial review of grounding requirements and electric system protection; and

7.4 Description and nonbinding estimated cost of facilities required to interconnect the proposed SGF and to address the identified short circuit and power flow issues.

8.0 The feasibility study shall model the impact of the SGF for all purposes identified in the Interconnection Request Form in order to avoid the further expense and interruption of operation for reexamination of feasibility and impacts if the Interconnection Customer later changes the purpose for which the SGF is being installed.

9.0 The study shall include the feasibility of all potential points of interconnection as requested by the Interconnection Customer and at the Interconnection Customer's cost.

10.0 A feasibility study report shall be prepared and transmitted to the Interconnection Customer within 30 business days of the Utility's receipt of the complete executed feasibility study agreement and required deposit. <u>If the Utility expects to miss the 30-business-day deadline, it must notify the Interconnection Customer in writing at least five business days before the deadline and provide a new expected completion date</u> [<u>to the extent the information is available</u>]<u>.</u>

11.0 If the feasibility study shows no potential for adverse system impacts, then within 10 business days, the Utility shall send the Interconnection Customer either an executable Small Generator Interconnection Agreement (Schedule 10 of 20VAC5-314-170) or a Facilities Study Agreement, including an outline of the scope of the study.

12.0 If the feasibility study shows potential for adverse system impacts, the review process shall proceed to the system impact study.

13.0 Governing law, regulatory authority, and rules. The validity, interpretation, and enforcement of this Agreement and each of its provisions shall be governed by the laws of the Commonwealth of Virginia, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a governmental authority.

14.0 Amendment. The Parties may amend this Agreement by a written instrument duly executed by both Parties.

15.0 No third-party beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations in this Agreement assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

16.0 Waiver.

16.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of or duty imposed upon such Party.

16.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or default of this Agreement for any reason by an Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

17.0 Entire agreement. This Agreement, including all attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

18.0 Multiple counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

19.0 No partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

20.0 Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (i) such portion or provision shall be deemed separate and independent, (ii) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (iii) the remainder of this Agreement shall remain in full force and effect.

21.0 Subcontractors. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; however, each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

21.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon and shall be construed as having application to any subcontractor of such Party.

21.2 The obligations under this Section 21.0 of this Agreement will not be limited in any way by any limitation of subcontractor's insurance.

22.0 Reservation of rights. The Utility shall have the right to make a unilateral filing with the State Corporation Commission to modify this Agreement with respect to any rates, terms, and conditions, charges, or classifications of service, and the Interconnection Customer shall have the right to make a unilateral filing with the State Corporation Commission to modify this Agreement; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before the State Corporation Commission in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties except to the extent that the Parties otherwise agree as provided in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year of this Agreement.

(Insert name of Utility) (Insert name of Interconnection Customer)

____
____

Signed:__________________________
Signed:___________________________

Name (Printed): Name (Printed):

____
____

Title:____________________________
Title: ______________________________

Feasibility Study Due Date: _________________________

Attachment A to Schedule 7

Feasibility Study Agreement

Assumptions Used in Conducting the Feasibility Study

The feasibility study will be based upon the information set forth in the interconnection request and agreed upon in the scoping meeting held on _____________________:

1. Designation of point of interconnection and configuration to be studied.

2. Designation of alternative points of interconnection and configuration.

Questions 1 and 2 are to be completed by the Interconnection Customer. Any other assumptions are to be provided by the Interconnection Customer and the Utility.

____

____

Schedule 8

LEVEL 3 SYSTEM IMPACT STUDY AGREEMENT FOR SMALL GENERATING FACILITIES

This Agreement is made and entered into this _____day of___________________20_______by and between ____, a ____________________________ organized and existing under the laws of the state of____, ("Interconnection Customer,") and ____, a __________________existing under the laws of the state of________, ("Utility"). Interconnection Customer and Utility each may be referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, the Interconnection Customer is proposing to develop an SGF or generating capacity addition to an existing SGF consistent with the interconnection request completed by the Interconnection Customer on______________________; and

WHEREAS, the Interconnection Customer desires to interconnect the SGF with the Utility's system; and

WHEREAS, the Utility has completed a feasibility study and provided the results of said study to the Interconnection Customer (This recital to be omitted if the Parties have agreed to forgo the feasibility study.); and

WHEREAS, the Interconnection Customer has requested the Utility to perform a system impact study to assess the impact of interconnecting the SGF with the Utility's system, and of any affected systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained in this Agreement the Parties agreed as follows:

1.0 The terms defined in Schedule 1 of 20VAC5-314-170 shall apply to this Schedule 8 of 20VAC 5-314-170.

2.0 The Interconnection Customer elects and the Utility shall cause to be performed a system impact study consistent with the standard small generator interconnection procedures.

3.0 System impact study costs will be deducted from the interconnection request study deposit as set forth in Schedule 6 of 20VAC5-314-170.

3.1 Study cost shall be the Utility's actual incremental costs and will be invoiced to the Interconnection Customer no later than 60 business days after the study is completed and delivered and will include a summary of professional time. Actual study costs may be reconciled during the final accounting process described in Article 6 of the Interconnection Agreement, as applicable.

3.2 The Interconnection Customer shall pay any study costs that exceed the deposit within 20 business days after receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Utility shall refund the excess within 20 business days of the invoice without interest unless additional studies are required.

4.0 A system impact study shall identify and detail the electric system impacts that would result if the SGF were interconnected without project modifications or electric system modifications, focusing on the adverse electric system impacts identified in the feasibility study or in the scoping meeting. A system impact study shall evaluate the impact of the proposed interconnection on the reliability of the electric system.

5.0 A system impact study will be based upon the results of the feasibility study and the technical information provided by Interconnection Customer in the interconnection request. The Utility reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the system impact study. If the information requested by the Utility is not provided by the Interconnection Customer within a reasonable timeframe to be identified by the Utility in writing, the Utility shall provide the Interconnection Customer written notice providing an opportunity to cure such failure by the close of business on the 10th business day following the posted date of such notice, where failure to provide the information requested within this period shall result in the study being terminated, and the interconnection request being deemed withdrawn. The period of time for the Utility to complete the system impact study shall be tolled during any period that the Utility has requested information in writing from the Interconnection Customer necessary to complete the study and such request is outstanding.

6.0 A system impact study shall consist of a study of the potentially impacted transmission and distribution systems, a short circuit analysis, a stability analysis, a power flow analysis, voltage drop and flicker studies, grounding reviews, distribution load flow study, analysis of equipment interrupting ratings, protection coordination study, and impacts on electric system operation, as necessary. A system impact study shall state the assumptions upon which it is based, state the results of the analyses, and provide the requirement or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. A system impact study shall provide a list of facilities and modifications that would be required as a result of the interconnection along with estimates of cost responsibility and time to construct. If arranged with the Utility prior to the Utility preparing the system impact study agreement, the system impact study may, at the Interconnection Customer's cost, include one or more alternatives to the point of interconnection; however, such alternative points must be on the same distribution circuit as the point of interconnection the Interconnection Customer specified as the proposed point of interconnection.

7.0 Affected systems may participate in the preparation of a system impact study, with a division of costs among such entities as they may agree. All affected systems shall be afforded an opportunity to review and comment upon a system impact study that covers potential adverse system impacts on their electric systems, and the Utility has 20 additional business days to complete a system impact study requiring review by affected systems.

8.0 If the Utility uses a queuing procedure for sorting or prioritizing projects and associated cost responsibilities for any required network upgrades, the system impact study shall consider all generating facilities (and with respect to Section 8.3 of this Agreement, any identified upgrades associated with such higher queued interconnection) that, on the date the system impact study is commenced:

8.1 Are directly interconnected with the Utility's system; or

8.2 Are interconnected with affected systems and may have an impact on the proposed interconnection; and

8.3 Have a pending higher queued interconnection request to interconnect with the Utility's system.

9.0 A system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 45 business days after this Agreement is signed by the Parties or in accordance with the Utility's queuing procedures. <u>If the Utility expects to miss the 45-business-day deadline, it must notify the Interconnection Customer in writing at least five business days before the deadline and provide a new expected completion date</u> [<u>to the extent the information is available</u>].

10.0 If the system impact study shows that facility modifications are needed to accommodate the SGF, then within 10 business days following transmittal of the system impact study report, the Utility shall send the Interconnection Customer a Facilities Study Agreement, including an outline of the scope of the study.

11.0 Governing law, regulatory authority, and rules. The validity, interpretation, and enforcement of this Agreement and each of its provisions shall be governed by the laws of the Commonwealth of Virginia, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a governmental authority.

12.0 Amendment. The Parties may amend this Agreement by a written instrument duly executed by both Parties.

13.0 No third-party beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations pursuant to this Agreement assumed are solely for the use and benefit of the Parties, their successors in interest, and where permitted, their assigns.

14.0 Waiver.

14.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of or duty imposed upon such Party.

14.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall if requested, be provided in writing.

15.0 Entire agreement. This Agreement, including all attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

16.0 Multiple counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

17.0 No partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

18.0 Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (i) such portion or provision shall be deemed separate and independent, (ii) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (iii) the remainder of this Agreement shall remain in full force and effect.

19.0 Subcontractors. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; however, each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services, and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

19.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon and shall be construed as having application to any subcontractor of such Party.

19.2 The obligations under this Section 19.0 of this Agreement will not be limited in any way by any limitation of subcontractor's insurance.

20.0 Reservation of rights. The Utility shall have the right to make a unilateral filing with the State Corporation Commission to modify this Agreement with respect to any rates, terms and conditions, charges, or classifications of service, and the Interconnection Customer shall have the right to make a unilateral filing with the State Corporation Commission to modify this Agreement; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before the State Corporation Commission in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties except to the extent that the Parties otherwise agree as provided in this Agreement.

IN WITNESS THEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year of this Agreement.

(Insert name of Utility) (Insert name of Interconnection Customer)

____

Signed:___________________________
Signed: __________________________

Name (Printed): Name (Printed):

____

Title:_________________________
Title: _________________________

System Impact Study Due Date:_____________________

Schedule 9

LEVEL 3 FACILITIES STUDY AGREEMENT FOR SMALL GENERATING FACILITIES

This Agreement is made and entered into this _____day of______________20___ by and between ____, a ___________________________organized and existing under the laws of the state of____, ("Interconnection Customer,") and ____, a __________________existing under the laws of the state of____ ____________, ("Utility"). Interconnection Customer and Utility each may be referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, the Interconnection Customer is proposing to develop an SGF or generating capacity addition to an existing SGF consistent with the interconnection request completed by the Interconnection Customer on___________________; and

WHEREAS, the Interconnection Customer desires to interconnect the SGF with the Utility's system; and

WHEREAS, the Utility has completed a system impact study and provided the results of the study to the Interconnection Customer; and

WHEREAS, the Interconnection Customer has requested the Utility to perform a facilities study to specify and estimate the cost of the equipment, engineering, procurement, and construction work needed to implement the conclusions of the system impact study in accordance with Good Utility Practice to physically and electrically connect the SGF with the Utility's system.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained in this Agreement the Parties agreed as follows:

1.0 The terms defined in Schedule 1 of 20VAC5-314-170 shall apply to this Schedule 9 of 20VAC 5-314-170.

2.0 The Interconnection Customer elects and the Utility shall cause a facilities study consistent with the standard small generator interconnection procedures.

3.0 The scope of the facilities study shall be subject to data provided in Attachment A to this Agreement.

4.0 The facilities study shall specify and estimate the cost of the equipment, engineering, procurement, and construction work needed to implement the conclusions of the feasibility study or system impact study and to allow the SGF to be interconnected and operate safely and reliably.

5.0 Facilities study costs will be deducted from the interconnection request study deposit, as set forth in Schedule 6 of 20VAC5-314-170.

5.1 Study cost shall be the Utility's actual incremental costs and will be invoiced to the Interconnection Customer no later than 60 business days after the study is completed and delivered and will include a summary of professional time. Actual study costs may be reconciled during the final accounting process described in Article 6 of the Interconnection Agreement, as applicable.

5.2 The Interconnection Customer shall pay any study costs that exceed the deposit within 20 business days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Utility shall refund the excess within 20 business days of the invoice without interest.

6.0 Design for any required customer's interconnection facilities, attachment facilities, or distribution upgrades shall be performed under the facilities study. The Utility may contract with consultants to perform activities required under the facilities study. The Interconnection Customer and the Utility may agree to allow the Interconnection Customer to separately arrange for the design of some of the customer's interconnection facilities. In such cases, facilities design will be reviewed or modified prior to acceptance by the Utility, under the provisions of the facilities study. If the Parties agree to separately arrange for design and construction, and provided security and confidentiality requirements can be met, the Utility shall make sufficient information available to the Interconnection Customer in accordance with confidentiality and critical infrastructure requirements, to permit the Interconnection Customer to obtain an independent design and cost estimate for any necessary facilities.

7.0 The facilities study shall also identify (i) the electrical switching configuration of the equipment, including transformer, switchgear, meters, and other station equipment; (ii) the nature and estimated cost of the attachment facilities and distribution upgrades necessary to accomplish the interconnection; and (iii) an estimate of the time required to complete the construction and installation of such facilities.

8.0 The Utility may propose to group facilities required for more than one Interconnection Customer in order to minimize facilities costs through economies of scale, but any Interconnection Customer may require the installation of facilities required for its own SGF if it is willing to pay the costs of those facilities.

9.0 In cases where system upgrades are required, the Utility shall transmit the facilities study report within 45 business days after receipt of the complete Facilities Study Agreement and the deposit. In cases where no system upgrades are necessary, and the required facilities are limited to customer's interconnection facilities and attachment facilities only, the Utility shall transmit the facilities study report within 30 business days after receipt of this Agreement and the deposit. The Utility reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the facilities study. If the information requested by the Utility is not provided by the Interconnection Customer within a reasonable timeframe to be identified by the Utility in writing, the Utility shall provide the Interconnection Customer written notice providing an opportunity to cure such failure by the close of business on the 10th business day following the posted date of such notice, where failure to provide the information requested within this period shall result in the study being terminated, and the interconnection request being deemed withdrawn. The period of time for the Utility to complete the facilities study shall be tolled during any period that the Utility has requested information in writing from the Interconnection Customer necessary to complete the study and such request is outstanding. <u>If the Utility expects to miss the 45-business-day or 30-business-day deadline, it must notify the Interconnection Customer in writing at least five business days before the deadline and provide a new expected completion date</u> [<u>to the extent the information is available</u>]<u>.</u>

10.0 Governing law, regulatory authority, and rules. The validity, interpretation, and enforcement of this Agreement and each of its provisions shall be governed by the laws of the Commonwealth of Virginia, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a governmental authority.

11.0 Amendment. The Parties may amend this Agreement by a written instrument duly executed by both Parties.

12.0 No third-party beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations assumed in this Agreement are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

13.0 Waiver.

13.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of or duty imposed upon such Party.

13.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or default of this Agreement for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

14.0 Entire agreement. This Agreement, including all attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

15.0 Multiple counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

16.0 No partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

17.0 Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (i) such portion or provision shall be deemed separate and independent, (ii) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (iii) the remainder of this Agreement shall remain in full force and effect.

18.0 Subcontractors. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; however, each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services, and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

18.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon and shall be construed as having application to any subcontractor of such Party.

18.2 The obligations under this Section 18.0 of this Agreement will not be limited in any way by any limitation of subcontractor's insurance.

19.0 Reservation of rights. The Utility shall have the right to make a unilateral filing with the State Corporation Commission to modify this Agreement with respect to any rates, terms and conditions, charges, or classifications of service, and the Interconnection Customer shall have the right to make a unilateral filing with the State Corporation Commission to modify this Agreement; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before the State Corporation Commission in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties except to the extent that the Parties otherwise agree as provided in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year of this Agreement.

(Insert name of Utility) (Insert name of Interconnection Customer)

____
____

Signed_______________________________
Signed____________________________

Name (Printed): Name (Printed):

____
____

Title______________________________
Title___________________________

Facilities Study Due Date: ______________________

Attachment A to Schedule 9

Facilities Study Agreement

Data to Be Provided by the Interconnection Customer with the Facilities Study Agreement

1. Provide a location plan and simplified one-line diagram of the plant and station facilities. For staged projects, indicate future generation, future transmission circuits, and other major future facilities. On the one-line diagram, show (i) each generator, its electric connection configuration, and its generation capacity; (ii) the location and capacity of auxiliary power; and (iii) minimum load on CT/PT.

2. One set of metering is required for each generation connection to the new ring bus or existing Utility station. Indicate the number of generation connections requiring a metering set:_______

3. Indicate whether an alternate source of auxiliary power will be available during CT/PT maintenance. Yes_______ No_______

4. Indicate whether a transfer bus on the generation side of the metering will require that each meter set be designed for the total plant generation. Indicate such on the one-line diagram.

5. State the type of control system or programmable logic controller (PLC) that will be located at the SGF.

____
____
____

6. State the protocol used by the control system or PLC.

____
____
____

7. Describe the operation sequence and timing of the protection scheme during disconnection and reconnection to the Utility by the SGF.

____
____
____

8. Provide a 7.5-minute quadrangle map of the site. Indicate the plant, station, transmission line, and property lines.

9. State the physical dimensions of the proposed interconnection station.

____

10. State the bus length from generation to interconnection station.

____

11. Provide a diagram or description of the point of interconnection desired by the Interconnection Customer that is to be the point of interconnection in the system impact study report.

____

12. State the line length from interconnection station to Utility system.

____

13. State the pole or tower number observed in the field affixed to the pole or tower leg.

____

14. State the number of third-party easements required for distribution or transmission lines.

____

15. Provide the following proposed schedule dates:

a. Date Interconnection Customer to begin construction: ________________

b. Date generator step-up transformers to receive back feed power: ________________

c. Date Interconnection Customer will test SGF: ________________

d. Date Interconnection Customer will place SGF into commercial operation: ________________

EDITOR'S NOTE: Schedule 10 is not amended since the proposed stage; therefore, the text of that schedule is not set out. Find the proposed regulation at 41:9 VA.R. 2153-2186 May 5, 2025.

DOCUMENTS INCORPORATED BY REFERENCE (20VAC5-314)

IEEE Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces, The Institute of Electrical and Electronics Engineers, Inc., Standard 1547, 2018~~.~~

IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems, The Institute of Electrical and Electronics Engineers, Inc., Standard 1547.1, July 1, 2005~~.~~

IEEE Standard 1547.3, Guide for Cybersecurity of Distributed Energy Resources Interconnected with Electric Power Systems, June 5, 2023

National Association of Regulatory Utility Commissioners Cybersecurity Baselines for Electric Distribution Systems and DER, February 2024

VA.R. Doc. No. R25-8227; Filed July 1, 2026, 3:30 p.m.

Final Regulation

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

Title of Regulation: **20VAC5-315. Regulations Governing Net Energy Metering (amending 20VAC5-315-20; adding 20VAC5-315-100).**

Statutory Authority: §§ 12.1-13 and 56-594 of the Code of Virginia.

Effective Date: July 1, 2026.

Agency Contact: Mike Cizenski, Deputy Director, Division of Public Utility Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9441, or email mike.cizenski@scc.virginia.gov.

Summary:

Pursuant to Chapters 615 and 658 of the 2025 Acts of Assembly, the amendments implement a distribution cost sharing program that allocates the costs of distribution system upgrades needed to interconnect new projects, among participating net energy metering projects sized between 250 kilowatts and less than or equal to three megawatts, with requirements for Phase I and Phase II Utilities for cost recovery, refunds, and exemptions if a developer of a project pays for such program in full.

Changes to the proposed regulation (i) increase to 90 days the amount of time within which the utility shall perform any recalculation and issue any resulting refund or additional bill to a generating facility during the cost-sharing window; (ii) clarify when a nonoperational refund is not required; and (iii) increase to annually the frequency a utility must submit a report listing all executed Distribution Cost Sharing Agreements and associated

qualifying upgrades to the Division of Public Utility Regulation.

AT RICHMOND, JUNE 26, 2026

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2026-00002

Ex Parte: In the matter concerning a rulemaking

proceeding required by Chapters 615 and 658

of the 2025 Acts of Assembly

ORDER ADOPTING REGULATIONS

The Virginia General Assembly enacted legislation during its 2025 Session[1] requiring the State Corporation Commission (Commission) to establish by regulation a distribution cost sharing program for Phase I and Phase II Utilities, as those terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia (Code), to construct distribution upgrades required to interconnect triggering projects.[2] The new regulations shall be finalized by the Commission no later than July 1, 2026.

Under the program:

> [w]hen a Phase I or Phase II Utility determines that a qualifying upgrade is required to interconnect a triggering project, such utility shall determine the costs of the qualifying upgrade and the net increase in hosting capacity that would result from the construction of the qualifying upgrade. The costs of the qualifying upgrade shall be subject to approval by the Commission that the costs are reasonable and prudent. The program shall require each Phase I and Phase II Utility to allocate the costs of qualifying upgrades among any sharing projects based on the AC nameplate capacity rating of each sharing project, except that a project shall be exempted from the program if the owner or developer of such project elects to pay in full the approved cost of any associated qualifying upgrade. The Commission shall determine limits on cost recovery for ratepayers and the appropriate time period for cost recovery under the program. The program shall also require that the costs attributed to jurisdictional triggering projects are recovered from jurisdictional sharing projects and costs attributed to nonjurisdictional triggering projects are recovered from nonjurisdictional sharing projects. The Commission may establish a system to refund projects for any interconnection upgrade costs collected during time periods in which such projects are not operational and may provide such refunds upon the petition of the owner of a participating project.[3]

On February 17, 2026, the Commission issued an Order for Notice and Comment (Procedural Order) that included proposed regulations (Proposed Regulations) prepared by Commission Staff (Staff). The Procedural Order directed that notice of the Proposed Regulations be given to the public; that interested persons be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Regulations; that Staff report on or respond to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Regulations; and that a copy of the Proposed Regulations be sent to the Registrar of Regulations for publication in the Virginia Register of Regulations.

On April 20, 2026, the following entities filed comments on the Proposed Regulations: Virginia Electric and Power Company, Appalachian Power Company, and the Southern Environmental Law Center and Appalachian Voices. The Commission also received one public comment on the Proposed Regulations. The Commission did not receive any requests for hearing.

On May 11, 2026, Staff filed its Staff Response, which included further revisions to the Proposed Regulations.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the specific regulations appended to this Order Adopting Regulations as Attachment A should be adopted effective July 1, 2026. Attachment A contains certain modifications to the Proposed Regulations. These modifications follow our consideration of Staff's further proposed changes in the Staff Response and the comments filed in this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) The relevant provisions of Regulations Governing Net Energy Metering, 20VAC5-315-20 and 20VAC5-315-100, as shown in Attachment A to this Order Adopting Regulations, are hereby adopted and are effective as of July 1, 2026.

(2) Each Phase I and Phase II Utility shall file on or before December 1, 2026, tariffs and forms, and a Distribution Cost Sharing Agreement consistent with amended Regulations Governing Net Energy Metering, subject to Commission approval.

(3) The Commission's Office of General Counsel shall forward a copy of this Order Adopting Regulations, with Attachment A, to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(4) An electronic copy of this Order Adopting Regulations with Attachment A shall be made available on the Commission's website: scc.virginia.gov/regulated-industries/utility-regulation/pur-responsibilities/rulemaking.

(5) This docket is dismissed.

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

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[1] 2025 Va. Acts ch. 615 (SB 1058); 2025 Va. Acts ch. 658 (HB 2266).

[2] Code § 56-596.6 B.

[3] Id.

20VAC5-315-20. Definitions.

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

"Agricultural business" means any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the production and sale of plants and animals, products collected from plants and animals, or plant and animal services that are useful to the public.

"Agricultural net metering customer" means a customer that operates an electrical generating facility consisting of one or more agricultural renewable fuel generators having an aggregate generation capacity of not more than 500 kilowatts as part of an agricultural business under a net metering service arrangement. An agricultural net metering customer may be served by multiple meters serving the agricultural net metering customer that are located at the same or adjacent sites and that may be aggregated into one account. This account shall be served under the appropriate tariff.

"Agricultural renewable fuel generator" or "agricultural renewable fuel generating facility" means one or more electrical generators that:

1. Use as their sole energy source solar power, wind power, or aerobic or anaerobic digester gas;

2. The agricultural net metering customer owns and operates, or has contracted with other persons to own or operate, or both;

3. Are located on land owned or controlled by the agricultural business;

4. Are connected to the agricultural net metering customer's wiring on the agricultural net metering customer's side of the agricultural net metering customer's interconnection with the distributor;

5. Are interconnected and operated in parallel with an electric company's distribution facilities; and

6. Are used primarily to provide energy to metered accounts of the agricultural business.

"Billing period" means, as to a particular agricultural net metering customer or a net metering customer, the time period between the two meter readings upon which the electric distribution company and the energy service provider calculate the agricultural net metering customer's or net metering customer's bills.

"Billing period credit" means, for a nontime-of-use agricultural net metering customer or a nontime-of-use net metering customer, the quantity of electricity generated and fed back into the electric grid by the agricultural net metering customer's agricultural renewable fuel generator or by the net metering customer's renewable fuel generator in excess of the electricity supplied to the customer over the billing period. For time-of-use agricultural net metering customers or time-of-use net metering customers, billing period credits are determined separately for each time-of-use tier.

"Competitive service provider" means a person, licensed by the State Corporation Commission, that sells or offers to sell a competitive energy service within the Commonwealth. This term includes affiliated competitive service providers but does not include a party that supplies electricity or natural gas, or both, exclusively for its own consumption or the consumption of one or more of its affiliates. For the purpose of this chapter, competitive service providers include aggregators.

"Contiguous sites" means a group of land parcels in which each parcel shares at least one boundary point with at least one other parcel in the group. Property whose surface is divided only by public right-of-way is considered contiguous.

"Customer" means a net metering customer or an agricultural net metering customer.

"Demand charge-based time-of-use tariff" means a retail tariff for electric supply service that has two or more time-of-use tiers for energy-based charges and an electricity supply demand (kilowatt) charge.

"Electric cooperative" means an electric distribution company organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia, owned by its members.

"Electric distribution company" means the entity that owns or operates the distribution facilities delivering electricity to the premises of an agricultural net metering customer or a net metering customer.

"Energy service provider (supplier)" means the entity providing electricity supply service, either tariffed or competitive service, to an agricultural net metering customer or a net metering customer.

"Excess generation" means the amount of electrical energy generated in excess of the electrical energy consumed by the agricultural net metering customer or net metering customer over the course of the net metering period. For time-of-use agricultural net metering customers or net metering customers, excess generation is determined separately for each time-of-use tier.

"Generator" or "generating facility" means an electrical generating facility consisting of one or more renewable fuel generators or one or more agricultural renewable fuel generators that meet the criteria under the definition of "net metering customer" and "agricultural net metering customer," respectively.

<u>"Hosting capacity" means the amount of aggregate generation that can be accommodated on the electric distribution system without any infrastructure upgrades.</u>

"Low-income utility customer" means the same as that term is defined in § 56-576 of the Code of Virginia.

"Net metering customer" means, for an electric cooperative, a customer owning and operating, or contracting with other persons to own or operate, or both, an electrical generating facility consisting of one or more renewable fuel generators having an aggregate generation capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers. The generating facility shall be operated under a net metering service arrangement. For an investor-owned electric distribution company, "net metering customer" means a customer owning and operating, or contracting with other persons to own or operate, or both, an electrical generating facility consisting of one or more renewable fuel generators having an aggregate generation capacity of not more than 25 kilowatts for residential customers and not more than three megawatts for nonresidential customers. The generating facility shall be operated under a net metering service arrangement.

"Net metering period" means each successive 12-month period beginning with the first meter reading date following the final interconnection of an agricultural net metering customer or a net metering customer's generating facility consisting of one or more agricultural renewable fuel generators or one or more renewable fuel generators, respectively, with the electric distribution company's distribution facilities.

"Net metering service" means providing retail electric service to an agricultural net metering customer operating an agricultural renewable fuel generating facility or a net metering customer operating a renewable fuel generating facility and measuring the difference, over the net metering period, between the electricity supplied to the customer from the electric grid and the electricity generated and fed back to the electric grid by the customer.

"Nonprofit customer" or "not-for-profit customer" means a person that is exempt from federal income taxation, including (without limitation) schools, hospitals, institutions of higher education, public charities, and churches and other houses of religious worship, as determined by the Internal Revenue Service.

"Person" means any individual, sole proprietorship, corporation, limited liability company, partnership, association, company, business, trust, joint venture, or other private legal entity, the Commonwealth, or any city, county, town, authority, or other political subdivision of the Commonwealth.

"Phase I Utility" shall be defined in accordance with subdivision A 1 of § 56-585.1 of the Code of Virginia.

"Phase II Utility" shall be defined in accordance with subdivision A 1 of § 56-585.1 of the Code of Virginia.

"Program" means the distribution cost sharing program established pursuant to [~~20VAC5-315-100~~ § 56-596.6 of the Code of Virginia].

"Purchase power agreement provider" or "PPA provider" means, in an electric cooperative service territory, a person registered with the commission's Division of Public Utility Regulation pursuant to 20VAC5-315-77 to offer third-party partial requirements power purchase agreements to customers.

"Qualifying upgrade" means a system upgrade that increases the hosting capacity of the utility's distribution system.

"Registry" means, in reference to a PPA provider, the list of those persons registered with the commission's Division of Public Utility Regulation as PPA providers.

"Renewable Energy Certificate" or "REC" represents the renewable energy attributes associated with the production of one megawatt-hour (MWh) of electrical energy by a generator.

"Renewable fuel generator" or "renewable fuel generating facility" means one or more electrical generators that:

1. Use renewable energy, as defined by § 56-576 of the Code of Virginia, as their total fuel source;

2. The net metering customer owns and operates, or has contracted with other persons to own or operate, or both;

3. Are located on land owned or leased by the net metering customer and connected to the net metering customer's wiring on the net metering customer's side of its interconnection with the distributor;

4. Are interconnected pursuant to a net metering arrangement and operated in parallel with the electric distribution company's distribution facilities; and

5. Are intended primarily to offset all or part of the net metering customer's own electricity requirements. For an electric cooperative, the capacity of any generating facility installed on or after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available. For an investor-owned electric distribution company, the capacity of any generating facility installed between July 1, 2015, and July 1, 2020, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Sharing project" means any distributed energy resource with an alternating current (AC) nameplate capacity rating greater than or equal to 250 kilowatts and less than or equal to three megawatts within a Phase I or Phase II Utility's service territory seeking to interconnect to the utility's distribution system and participate in net energy metering pursuant to § 56-594 of the Code of Virginia that utilizes distribution system upgrades that were necessary to interconnect a triggering project.

"Small agricultural generating facility" means an electrical generating facility that:

1. Has a capacity of not more than 1.5 megawatts and does not exceed 150% of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;

2. Uses as its total source of fuel renewable energy;

3. Is located on the customer's premises and is interconnected with the utility's distribution system through a separate meter;

4. Is interconnected and operated in parallel with an electric utility's distribution system but not transmission facilities;

5. Is designed so that the electricity generated is expected to remain on the utility's distribution system; and

6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594 of the Code of Virginia;

2. Operates a small agricultural generating facility as part of (i) an agricultural business or (ii) any business granted a manufacturer license pursuant to subdivisions 1 through 6 of § 4.1-206.1 of the Code of Virginia;

3. May be served by multiple meters that are located at separate but contiguous sites;

4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150% of the customer's expected annual energy consumption but not for billing or retail service purposes, provided that the same utility serves all of its meters;

5. Uses not more than 25% of the contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and

6. Provides the electric utility with a certification, attested under oath, as to the amount of land being used for renewable generation.

"System peak" for an electric cooperative, means the highest peak, based on the noncoincident peak of the electric cooperative or the coincident peak of all of the electric cooperative's customers of the past three years listed in Part O, Line 20 of Form 7 (Financial And Operating Report - Electric Distribution) filed with the U.S. Department of Agriculture's Rural Utilities Service (RUS), or an equivalent form if a cooperative is not an RUS borrower, less any portion of the cooperative's total load that is served by a competitive service provider or by a market-based rate.

"Third-party partial requirements power purchase agreement" or "third-party PPA" means, for an electric cooperative, an agreement entered into pursuant to § 56-594.01 K of the Code of Virginia between a customer engaging in net energy metering and a registered PPA provider pursuant to 20VAC5-315-77.

"Time-of-use customer" means an agricultural net metering customer or net metering customer receiving retail electricity supply service under a demand charge-based time-of-use tariff.

"Time-of-use period" means an interval of time over which the energy (kilowatt-hour) rate charged to a time-of-use customer does not change.

"Time-of-use tier" or "tier" means all time-of-use periods given the same name (e.g., on-peak, off-peak, critical peak, etc.) for the purpose of time-differentiating energy (kilowatt-hour) based charges. The rates associated with a particular tier may vary by day and by season.

"Triggering project" means a project application in the interconnection queue at a given substation or feeder that requires a qualifying upgrade to successfully interconnect the project to the electric distribution system.

20VAC5-315-100. Distribution cost sharing program.

A. Purpose and applicability.

1. The purpose of this section is to implement the distribution cost sharing program pursuant to the provisions of § 56-596.6 of the Code of Virginia for a generating facility with an alternating current nameplate capacity greater than 250 kilowatts and less than or equal to three megawatts that seeks to interconnect to a Phase I or Phase II Utility's distribution system and participate in net energy metering pursuant to § 56-594 of the Code of Virginia.

2. This section applies to Phase I and Phase II Utilities and to all triggering projects and sharing projects, as defined in 20VAC5-315-20, interconnecting pursuant to this section.

3. Each Phase I and Phase II Utility shall file on or before December 1, 2026, tariffs and forms, and a Distribution Cost Sharing Agreement consistent with this section, subject to commission approval. These documents should:

a. Conform to the parameters of this section.

b. Describe any utility-specific procedures and system configurations.

c. Include applicable administrative and processing fees as permitted by subsection G of this section.

B. Identification of qualifying upgrades and documentation.

1. When the utility determines through a [~~system impact~~ facilities] study that a qualifying upgrade is required to interconnect a triggering project, the utility shall:

a. Identify any specific upgrade, including location and function.

b. Determine an estimate of the cost of such qualifying upgrade, broken out by major cost categories (materials, internal labor, and other direct costs).

c. Determine and document the net increase in hosting capacity, expressed in kilowatts or megawatts, attributable to the qualifying upgrade.

2. The utility shall provide the applicant of the triggering project, and any subsequently queued applicants with projects on the affected circuit, with a study report that:

a. Identifies each qualifying upgrade and any non-qualifying upgrades.

b. Provides the estimated cost of each qualifying upgrade and the net increase in hosting capacity.

c. States the cost-sharing window opening date and estimated closing date, subject to subsection E of this section.

C. Determination of qualifying upgrade costs.

1. Costs of qualifying upgrades shall be determined by the utility using its Unit Cost Guide.

2. For each qualifying upgrade, the utility shall document:

a. The quantities of standard components and work items and the associated unit costs drawn from the Unit Cost Guide.

b. Any site-specific or non-standard cost elements and the basis for such costs.

c. The resulting total qualifying upgrade cost used for allocation under subsection D of this section.

3. The Unit Cost Guide shall be updated on an annual basis. Utilities shall not be required to seek project-specific commission approval of qualifying upgrade costs when such costs are calculated in accordance with the Unit Cost Guide, applicable standards, and good utility practice.

D. Cost allocation formula and thresholds.

1. Each utility shall apply a pro-rata cost allocation methodology under which the approved cost of qualifying upgrades is allocated among participating projects based on each project's alternating current nameplate capacity relative to the total alternating current nameplate capacity of all participating projects benefiting from the qualifying upgrade.

2. Unless otherwise approved by the commission, the allocation shall be calculated as follows:

A project's allocated share of qualifying upgrade cost is equal to the amount of the project alternating current nameplate in kilowatts divided by the sum of alternating current nameplate in kilowatts for all participating projects, then that amount multiplied by the approved qualifying upgrade cost.

3. The triggering project shall initially pay 100% of the estimated qualifying upgrade costs prior to construction, with subsequent sharing projects reimbursing the triggering project (and any prior sharing projects) for their proportional shares as payments are received.

4. The same cost allocation methodology shall apply to the reconciliation of estimated and actual qualifying upgrade costs at the conclusion of construction, with refunds or additional billings as provided in subsection F of this section.

5. The distribution cost sharing program shall apply only where [~~:~~

~~a. The~~] total estimated cost of a qualifying upgrade equals or exceeds $100,000.

[~~b. The net increase in hosting capacity attributable to the qualifying upgrade is at least 500 kilowatts, measured at the relevant circuit node or point of common coupling.~~]

E. Cost-sharing window and participation.

1. For each qualifying upgrade, the utility shall establish a cost-sharing window during which sharing projects may be allocated costs and triggering and sharing projects may receive refunds.

2. The default cost-sharing window shall be five years from the date the qualifying upgrade is placed in service.

3. Cost sharing shall terminate upon the earlier of:

a. The end of the cost-sharing window.

b. The point at which the net increase in hosting capacity created by the qualifying upgrade is fully utilized.

c. The point at which the remaining net cost of the qualifying upgrade to participating projects falls below the $100,000 threshold.

4. A triggering project may elect to opt out of the distribution cost sharing program by paying in full the approved cost of any associated qualifying upgrade, in which case such project shall not be treated as a sharing project and shall not be eligible to receive funds under this section.

F. Payments, reconciliation, and refunds.

1. Payment obligations.

a. Prior to the construction of qualifying upgrades, the triggering project shall pay the utility the estimated costs of all required interconnection upgrades, including qualifying and nonqualifying upgrades.

b. Each sharing project shall pay its allocated share of qualifying upgrade costs, plus its own nonqualifying upgrade costs, prior to construction of any upgrades necessary for its interconnection.

2. Reconciliation of estimated and actual costs.

a. Upon completion of the qualifying upgrade, the utility shall determine actual costs and recalculate each project's share under subsection D of this section.

b. The utility shall issue a final bill or refund to each participating project reflecting the difference between the amounts previously paid and the project's final allocated share, net of any applicable administrative or processing fees approved under subsection G of this section.

3. Refunds during cost-sharing window.

a. Refunds based on new sharing projects.

(1) When a new sharing project enters the program within the cost-sharing window and pays its allocated share of qualifying upgrade costs, the utility shall recalculate cost responsibility for all participating projects using the methodology in subsection D of this section.

(2) The utility shall then issue refunds or additional bills, as applicable, so that each participating project's net payments reflect its updated allocated share, net of applicable administrative and processing fees.

(3) These refunds and additional bills shall be administered automatically by the utility and shall not require a petition to the commission.

b. Final billing process.

(1) After all participating projects associated with a qualifying upgrade have been approved for operation, and actual qualifying upgrade costs are known, the utility shall perform a final reconciliation of costs and allocations under subsection E of this section.

(2) The utility shall issue any final refunds or additional bills so that each participating project's total payments equal its final allocated share of the actual qualifying upgrade costs, net of applicable administrative and processing fees.

c. Refunds during the cost-sharing window shall occur in the two circumstances described in subdivisions 3 a and 3 b of this subsection.

d. Process and timing.

(1) For refunds and additional bills issued under subdivisions 3 a and 3 b of this subsection, the utility shall perform the recalculation and issue any resulting refund or additional bill within [~~60~~ 90] days of (i) receipt of payment from the new sharing project in the case of subdivision 3 a of this subsection or (ii) completion of the final reconciliation after all participating projects have been approved for operation in the case of subdivision 3 b of this subsection.

(2) Refunds may be issued either as direct payments or as bill credits applied to future interconnection-related charges under this program, at the election of the project owner, as provided in the utility's tariff.

[(3) A nonoperational refund is not required if the upgrades have been completed and the project fails to become operational due to customer driven changes, equipment issues, or delays in meeting interconnection timelines.]

G. Administrative and processing fees.

1. Each utility shall include in its compliance filing reasonable administrative and processing fees to recover incremental costs of designing, implementing, and operating systems necessary to track qualifying upgrades, cost allocations, payments, and refunds and to avoid cost shifting to nonparticipating customers.

2. Administrative and processing fees may include:

a. A one-time application or program enrollment fee for projects electing to participate in the distribution cost sharing program.

b. A [~~per-allocation~~] processing fee assessed on participating projects each time the [utility reallocates] costs of a qualifying upgrade [~~are reallocated~~] due to the addition of a new sharing project or final reconciliation [~~.~~ and administers any resulting refund or additional bill, including refunds issued]

[~~c. A processing fee for each refund administered~~] as part of a cost-sharing recalculation or nonoperational refund.

3. Administrative and processing fees shall be subject to commission review and approval.

H. Jurisdictional and nonjurisdictional cost allocation.

1. The costs attributed to jurisdictional triggering projects shall be recovered only from jurisdictional sharing projects, and costs attributed to nonjurisdictional triggering projects shall be recovered only from nonjurisdictional sharing projects, consistent with § 56-596.6 of the Code of Virginia.

2. Each utility shall identify and document within the Distribution Cost Sharing Agreement whether a project is jurisdictional or nonjurisdictional and shall maintain records sufficient to demonstrate compliance with this subsection.

I. Dispute resolution.

1. In the event of a dispute arising out of the program, either party (project owners or utility) shall provide the other parties with a written notice of dispute. The notice shall describe in detail the nature of the dispute, which may include: (i) the designation of or cost of a qualifying upgrade, (ii) the calculation of net hosting capacity, (iii) cost allocations under subsection D of this section, and (iv) eligibility for or amount of a refund under subsection F of this section. The parties shall make a good faith effort to resolve the dispute informally within 10 business days.

2. If the dispute has not been resolved within 10 business days after receipt of the notice, either party may seek resolution assistance from the Division of Public Utility Regulation where the matter will be handled as an informal complaint.

Alternately, the parties may, upon mutual agreement, seek resolution through the assistance of a dispute resolution service. The dispute resolution service will assist the parties in either resolving the dispute or selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the parties in resolving the dispute. Each party shall conduct all negotiations in good faith and shall share equally in any costs paid to neutral third parties.

3. If the dispute remains unresolved, either party may petition the commission to handle the dispute as a formal complaint or may exercise whatever rights and remedies the party may have in equity or law.

J. Reporting and transparency. Each utility shall submit to the Division of Public Utility Regulation, on [~~a biannual~~ an annual] basis, a report listing all executed Distribution Cost Sharing Agreements and associated qualifying upgrades during the reporting period, including:

1. Circuit or node identifier.

2. Description of all qualifying upgrades.

3. Initial estimated and actual costs.

4. Net increase in hosting capacity.

5. Identity and alternating current nameplate capacity of triggering and sharing projects.

6. Cost allocations.

7. Payments received.

8. Refunds issued.

9. Administrative and processing fees collected.

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EXECUTIVE ORDER NUMBER 17 (2026)

DEVELOPMENT AND REVIEW OF STATE AGENCY REGULATIONS

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including, but not limited to, §§ 2.2-4013 and 2.2-4017 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for the review of all new regulations and changes to existing regulations proposed by state agencies, which shall include all agencies, boards, commissions, and other entities of the Commonwealth within the executive branch authorized to promulgate regulations. Nothing in this Executive Order shall be construed to limit my authority under the Code of Virginia, including to require an additional 30-day public comment period, file a formal objection to a regulation, suspend the effective date of a regulation with the concurrence of the applicable body of the General Assembly, or to exercise any other rights and prerogatives existing under Virginia law.

Definitions

The following acronyms and definitions are set out for ease of use and represent only a summary of terms and acronyms related to the regulatory review process. More detailed descriptions and definitions appear in the Administrative Process Act ("APA"), § 2.2-4000, et seq. of the Code of Virginia. "Agency Background Document" ("ABD") refers to a form that agencies complete and upload on the Virginia Regulatory Town Hall website for each regulatory stage in order to describe and explain the regulatory action. The form for each stage is available on Town Hall.

"Administrative Process Act" ("APA") refers to § 2.2-4000, et seq. of the Code of Virginia, which contains provisions setting forth the process for promulgating regulations in Virginia.

"Day" means a calendar day.

"Virginia Department of Planning and Budget" ("DPB") refers to the state entity that reviews regulatory proposals for economic and policy impact and manages the Virginia Regulatory Town Hall website.

"Economic Impact Analysis" ("EIA") refers to a report prepared by DPB that evaluates the estimated costs and benefits of a regulatory proposal.

"Emergency rulemaking process" refers to the process used (1) when there is an emergency situation as determined by the agency and affirmed by the Governor that an emergency regulation is necessary, or (2) when a Virginia statutory law, Acts of Assembly (such as the appropriation act), federal law, or federal regulation requires that a state regulation be effective in 280 days or fewer from its enactment, as outlined in Article 2 of the APA (§ 2.2-4011 of the Code of Virginia).

"Executive Branch Review" refers to the review of a regulatory proposal at various stages by the executive branch before the regulatory proposal is published in the Virginia Register of Regulations and is available for public comment. This includes review by the Office of the Attorney General, DPB, the Cabinet Secretary that oversees the agency promulgating the regulation, and the Office of the Governor.

"Exempt rulemaking process" refers to the process by which agency actions exempt from the promulgation requirements of Article 2 of the APA can be adopted and filed directly with the Office of the Registrar of Regulations ("Registrar"). Exempt actions may, but are not required to, follow the Executive Branch Review process outlined in this Executive Order. Agencies should consult with their respective Cabinet Secretary prior to promulgating a regulation under the exempt process.

"Fast-track rulemaking process" refers to the process utilized for regulations that are expected to be noncontroversial, as outlined in Article 2 of the APA (§ 2.2-4012.1 of the Code of Virginia).

"Mandate" refers to a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.

"Notice of Intended Regulatory Action" ("NOIRA") refers to the first stage in the standard rulemaking process under Article 2 of the APA (§ 2.2-4007.01 of the Code of Virginia).

"Office of the Attorney General" ("OAG") refers to the state agency headed by the Attorney General. The OAG reviews regulatory proposals at the emergency stage, the fast-track stage, and the proposed stage. In addition, the OAG must review a proposal at the final stage if changes with substantial impact, as determined by either the promulgating agency or DPB, have been made since the proposed stage.

"The Virginia Register of Regulations" ("Register") refers to an official legal publication that provides information about proposed and final changes to Virginia's regulations.

"Rulemaking or regulatory process" refers to the four types of rulemaking processes in Virginia: (1) emergency, (2) fast-track, (3) standard, and (4) exempt.

"Standard rulemaking process" refers to the default rulemaking process in Virginia. If a regulatory proposal does not meet the criteria for exempt, fast-track, or emergency rulemaking, it goes through the standard rulemaking process, generally consisting of three stages: NOIRA, proposed, and final.

"The Virginia Regulatory Town Hall website" ("Town Hall") refers to the website managed by DPB and used by agencies to post regulatory proposals and to facilitate the regulatory review process.

"Virginia Administrative Code" ("VAC") refers to Virginia's official legal publication for regulations.

Policy and Principles

The executive branch agencies of the Commonwealth must consider, review, and promulgate numerous regulations each year. This Executive Order sets out procedures and requirements to ensure the efficiency and quality of Virginia's regulatory process. All state employees who draft, provide policy analysis for, or review regulations shall carefully consider and apply the principles outlined below during the regulatory development and review process.

General

A. All regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth and be necessary to protect the public health, safety, and welfare. Accordingly, agencies shall consider:

1. The use of user fees or permits;

2. The use of information disclosure requirements, rather than regulatory mandates, so that the public can make more informed choices;

3. The use of performance standards in place of required techniques or behavior; and

4. The consideration of reasonably available alternatives in lieu of regulation.

B. Where applicable, and to the extent permitted by law, it shall be the policy of the Commonwealth that only regulations necessary to interpret the law or to protect the public health, safety, or welfare shall be promulgated. These principles shall be considered when an agency performs its periodic review of regulations pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, and this Executive Order.

C. Regulations shall be clearly written and easily understandable.

D. Regulations shall be designed to achieve their intended objective in the most efficient, cost-effective manner.

Regulatory Development

A. Regulatory development shall be based on the best reasonably available and reliable scientific, economic, and other information concerning the need for and consequences of the intended regulation. Agencies shall specifically cite the best reasonably available and reliable scientific, economic, or statistical data, as well as any other information in support of regulatory proposals.

B. Regulatory development shall be conducted in accordance with the statutory provisions related to impact on small businesses. DPB shall work with state agencies to address these requirements during the regulatory review process, including notifications, as appropriate, to the Joint Commission on Administrative Rules.

C. During regulatory development, agencies shall consider the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth, the impact on other state agencies and local governments, as well as the cost of compliance to the general public.

Public Participation

A. Agencies shall actively seek input for proposed regulations from interested parties, stakeholders, citizens, and members of the General Assembly.

B. In addition to requirements established in Article 2 of the APA, agencies shall post all rulemaking actions and related materials on Town Hall to ensure that the public is adequately informed of rulemaking activities.

C. All legal requirements and guidelines related to public participation shall be strictly followed to ensure that citizens have reasonable access and opportunity to present comments and concerns. Agencies shall inform interested persons of (1) Town Hall's email notification service that can send information regarding specific regulations, regulatory actions, and meetings about which citizens are interested; and (2) the process to submit comments in Town Hall public comment forums. Agencies shall establish procedures that provide for a timely written response to all comments and the inclusion of suggested changes that would improve the quality of the regulation.

Other

A. Agencies, as well as reviewing entities, shall perform their tasks in the regulatory process as expeditiously as possible and shall adhere to the timeframes set out in this Executive Order.

B. Regulations are subject to periodic evaluation, review, and modification, as appropriate, in accordance with the APA, policy initiatives of the Governor, and legislation.

C. Each agency head shall ensure that the policies and objectives specified in this Executive Order are followed. Agency heads shall ensure that information requested by DPB, a Cabinet Secretary, or the Office of the Governor, in connection with this Executive Order, is provided on a timely basis. Incomplete regulatory packages may be returned to the appropriate agency by DPB.

Applicability

The policies and procedures in this Executive Order apply to state agencies in the manner described herein.

Rulemakings initiated by executive branch agencies in accordance with Article 2 of the APA, emergency rulemakings initiated by any state agency pursuant to § 2.2-4011 of the

Code of Virginia and fast-track rulemakings initiated by any state agency pursuant to § 2.24012.1 of the Code of Virginia, shall follow the procedures in the Executive Branch Review Process section of this Executive Order.

Exempt Actions: Rulemakings that are exempt from Article 2 of the APA may, but are not required to, follow the review process outlined in this Executive Order. Nonetheless, the Governor, or her designee, or a Cabinet Secretary may direct any executive branch agency to comply with all or part of the requirements of this Executive Order for regulations exempt from Article 2 of the APA. All exempt rulemakings issued by executive branch agencies shall be posted on Town Hall according to DPB's instructions unless issued an exception, in writing, from the Governor or her designee.

Guidance Documents: Agencies are not required to follow the rulemaking process outlined in this Executive Order for guidance documents. However, agencies shall follow all requirements outlined in the APA (§ 2.2-4002.1 of the Code of Virginia) for guidance documents. Agency heads shall approve guidance documents and agencies shall post approved guidance documents on Town Hall for public comment according to the APA and DPB's instructions. Agencies shall ensure that all current and future guidance documents are directly posted on Town Hall; agencies shall not link to their website where a guidance document is housed and must instead ensure the guidance document is directly posted on the Town Hall. Agencies may seek exceptions from this Town Hall posting requirement from the Governor or her designee when the guidance document is too large, complicated, or cumbersome. In these cases, agencies shall maintain an active hyperlink on Town Hall.

These procedures shall apply in addition to those already specified in the APA, the agencies' public participation guidelines, and the agencies' basic authorizing statutes. As of July 1, 2026, these procedures shall apply to all rulemaking activities and stages that have been submitted to DPB for any stage of Executive Branch Review.

Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, create any cause of action, or provide standing for any person under Article 5 of the APA (§ 2.2-4025 et seq. of the Code of Virginia), or otherwise challenge the actions of a government entity responsible for adopting or reviewing regulations.

Executive Branch Review Process

Regulations shall be subject to Executive Branch Review as specified herein. All agency regulatory packages shall be submitted via Town Hall. For each stage of the regulatory development process, agencies shall complete and post the applicable ABD on Town Hall to describe the regulatory action and inform the public about the substance and reasons for the rulemaking. Agencies shall ensure that the correct regulatory text is synchronized with the appropriate stage information page on Town Hall. DPB shall ensure that all rulemaking activities that have been submitted for Executive Branch Review are visible to the public on Town Hall.

If a regulatory package is submitted to DPB, and DPB determines that the package is not substantially complete, then DPB shall notify the agency within 10 days. At that time, the agency shall withdraw the package from Town Hall and resubmit the package after all missing elements identified by DPB have been added. After approval by the Governor, agencies shall submit regulatory packages to the Registrar for publication on Town Hall within 14 days of being authorized to do so.

In rulemakings where there are two or more stages, the filing of each stage shall be submitted on Town Hall as expeditiously as the subject matter allows and no later than 180 days after the conclusion of the public comment period for the prior stage.

A. Standard Rulemaking Process

a. NOIRA Stage

The NOIRA shall include the nature and scope of the regulatory changes being considered and the relevant sections of the VAC. This package shall include draft regulatory text if it is available.

The order of Executive Branch Review shall be as follows:

1. The DPB shall review the NOIRA to determine whether it complies with all requirements of this Executive Order and applicable statutes, and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete NOIRA review package from the agency, the Director of DPB or his designee shall prepare a policy analysis containing the results of DPB's review to advise the appropriate Cabinet Secretary and the Governor of DPB's determination.

2. Upon notification by DPB of their determination, the Cabinet Secretary shall review the NOIRA within 14 days and forward a recommendation to the Governor.

3. The Chief of Staff to the Governor or her designee is hereby authorized to approve or disapprove NOIRAs on behalf of the Governor.

Public comments received following publication of the NOIRA should be encouraged and carefully considered in developing the proposed stage of a regulatory proposal.

b. Proposed Stage

Following the initial public comment period required by § 2.2-4007.01 of the Code of Virginia, and taking into account the comments received, the agency shall prepare a regulatory package.

At this stage, the regulatory package, including the text of the proposed regulation, shall be in as close to final form as possible, including completed review by all appropriate regulatory advisory panels or negotiated rulemaking panels. New issues that were not disclosed to the public when the NOIRA was published shall not be addressed at the proposed stage unless they result from an intervening mandate that is directly related to the nature and scope of the regulatory changes addressed in the NOIRA.

The order of Executive Branch Review shall be as follows:

1. The OAG shall review the proposed regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed regulation. After the OAG has completed its review, the package will be submitted to DPB.

2. The DPB shall review the proposed regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other relevant policies of the Commonwealth. Consistent with § 2.2-4007.04 of the Code of Virginia, within 45 days of receiving a complete regulatory review package, the Director of DPB or his designee shall prepare a policy analysis and EIA and advise the appropriate Cabinet Secretary and the Governor of the results of the review.

3. The Cabinet Secretary shall review the proposed regulation package within 14 days and forward a recommendation to the Governor. 4. The Chief of Staff to the Governor or her designee is hereby authorized to approve or disapprove proposed regulations on behalf of the Governor.

c. Revised Proposed Stage (Optional)

Following the public comment period of the proposed stage, required by § 2.2-4007.03 of the Code of Virginia, the agency may wish to make additional changes and/or receive additional public comment by publishing a revised proposed regulation (as allowed by § 2.2-4007.03 of the Code of Virginia). The order of Executive Branch Review for the revised proposed stage shall be the same as for the Proposed Stage, with the exception that DPB will perform its duties within 21 days.

d. Final Stage

Following the approval of the proposed regulation package or the revised proposed regulation package and taking into account all comments received during the prior stage, the rulemaking entity shall revise the proposed regulation.

If any change with substantial impact—as determined by DPB—has been made to the regulatory text between the proposed and final stages, the agency shall obtain a letter from the OAG certifying that the agency has authority to make the additional changes.

The order of Executive Branch Review shall be as follows:

1. The DPB shall review the final stage package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. DPB shall assess the effect of any substantive changes made since the publication of the proposed regulation and the responsiveness of the agency to public comment. Within 21 days of receiving a complete final regulation package from the agency, the Director of DPB or his designee shall prepare a policy analysis advising the appropriate Cabinet Secretary and the Governor of the results of the review.

2. The Cabinet Secretary shall review the final stage regulation package within 14 days and forward a recommendation to the Governor.

3. The Chief of Staff to the Governor or her designee is hereby authorized to approve or disapprove proposed final regulations on behalf of the Governor.

B. Fast-Track Rulemaking Process

The fast-track rulemaking process is for rules that are expected to be noncontroversial.

DPB shall review the fast-track regulation to determine whether it complies with all other requirements of this Executive Order and whether the contemplated regulatory action comports with the policies of the Commonwealth as set forth herein. DPB shall request the Governor's Office to determine if the fast-track process is appropriate when there is any question as to whether a package should be allowed to proceed in this manner. The Governor or her designee retains sole discretion to disapprove of the use of the fast-track rulemaking process when the Governor or her designee determines it is not in the public interest.

After a fast-track regulation has been submitted on Town Hall, Executive Branch Review will proceed as follows:

a. The OAG will conduct a review of the proposed fast-track regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the fasttrack regulation. After the OAG has completed its review, the package will be submitted to DPB.

b. The DPB shall determine within 10 days or less whether the regulatory package is appropriate for the fast-track rulemaking process and communicate this decision to the agency. After a package has been determined to be appropriate for the fast-track process, the Director of DPB or his designee shall have 30 days to prepare a policy analysis and EIA, and advise the appropriate Cabinet Secretary and the Governor of the results of the review.

c. The Cabinet Secretary shall review the fast-track regulation package within 14 days and forward a recommendation to the Governor.

d. The Chief of Staff to the Governor or her designee is hereby authorized to approve or disapprove fast-track regulations on behalf of the Governor.

C. Emergency Rulemaking Process

An agency may promulgate emergency regulations if it determines there is an emergency situation, consults with the OAG, and obtains the approval of the Governor or her designee. Agencies may also promulgate emergency regulations where Virginia statutory law, an Act of Assembly such as the appropriation act, federal law, or federal regulation requires that a state regulation be effective in 280 days or fewer from its enactment and the regulation is not exempt from the APA.

If the agency plans to replace the emergency regulation with a permanent regulation, it should file an Emergency/NOIRA stage. The order of Executive Branch Review shall be as follows:

a. The OAG will conduct a review of the proposed emergency regulation and produce a memorandum assessing the agency's legal authority to promulgate the regulation. The OAG may also provide any advice, recommendations, or other comments for consideration by the Governor with respect to the proposed emergency regulation. After the OAG has completed its review, the package will be submitted to DPB.

b. The DPB shall review the proposed emergency regulatory package to determine whether it complies with all requirements of this Executive Order, applicable statutes, and other policies of the Commonwealth. Within 14 days of receiving a complete emergency regulation package from the agency, the Director of DPB or his designee shall prepare a policy analysis and advise the appropriate Secretary and the Governor of the results of the review.

c. The Cabinet Secretary shall review the proposed emergency regulation package within 10 days and forward a recommendation to the Governor.

d. The Chief of Staff to the Governor or her designee is hereby authorized to approve or disapprove emergency regulations on behalf of the Governor.

D. Periodic Review of Existing Regulations

Each entity that promulgates regulations shall review their existing state regulations every four years to determine whether they should be retained as is, be amended, or repealed, consistent with the stated objectives of applicable law, including to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law, as regarding § 2.2-4007.1 of the Code of Virginia.

The regulatory review shall include: (1) the continued need for the rule; (2) the nature and complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Prior to commencement of the periodic regulatory review, the agency shall publish a notice of the review in the Register and post the notice on Town Hall. The agency shall provide a minimum of 21 days for public comment after publication of the notice. No later than 120 days after close of the public comment period, the agency shall publish a report of the findings of the regulatory review in the Register and post the report on Town Hall.

The periodic review shall include (1) a review by the Attorney General or his designee to ensure statutory authority for regulations, and (2) a determination by the Governor or her designee, whether the regulations are (a) necessary for the protection of public health, safety and welfare and (b) clearly written and easily understandable.

The periodic review must be conducted on Town Hall and may be accomplished either during the course of a comprehensive regulatory action using the standard rulemaking process, or by using the periodic review feature as follows:

a. If during the course of a comprehensive rulemaking, using the standard regulatory process, the agency plans to undertake a standard regulatory action, then the agency can fulfill the periodic review requirement by including a notice of a periodic review in the NOIRA. When the proposed stage is submitted for Executive Branch Review, the ABD shall include the result of the periodic review. When a regulation has undergone a comprehensive review as part of a regulatory action and when the agency has solicited public comment on the regulation, a periodic review shall not be required until four years after the effective date of the regulatory action.

b. Using the periodic review feature. If, at the time of the periodic review, the agency has no plans to begin a comprehensive rulemaking using the standard rulemaking process, then the agency shall use the periodic review feature to announce and report the result of a periodic review using the appropriate Town Hall form. If the result of the periodic review is to amend or repeal the regulation, the agency shall link the periodic review with the subsequent action to amend or repeal the regulation.

Electronic Availability of Petitions and Documents

Agencies shall post petitions for rulemaking and decisions to grant or deny the petitions on Town Hall, in accordance with the timeframes established in § 2.2-4007 of the Code of Virginia.

Executive branch agencies shall post the notice of, and agenda for, a public regulatory meeting on Town Hall at least seven days prior to the date of the meeting, except if it is necessary to hold an emergency meeting in which case the agenda shall be posted as soon as possible.

In addition, agencies that promulgate regulations and keep minutes of regulatory meetings shall post such minutes of those meetings on Town Hall in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the Code of Virginia.

Agencies shall post all guidance documents, as defined by § 2.2-4101 of the Code of Virginia on Town Hall. Agencies may only link to a guidance document with explicit permission from the Governor or her designee. Any changes to a guidance document shall be reflected on Town Hall within 10 days of the change.

Effective Date of the Executive Order

This Executive Order rescinds:

Executive Directive No. 1 (2022) issued by Governor Glenn Youngkin

Executive Order No. 19 (2022) issued by Governor Glenn Youngkin

Executive Order No. 51 (2025) issued by Governor Glenn Youngkin

All guidance and communication pertaining to regulatory management and the "AI Regulatory Reduction Pilot" from Governor Glenn Youngkin or his designees and the former Office of Regulatory Management (ORM).

This includes:

Office of Regulatory Management Procedures for Review of State Regulations (August 2022)

Office of Regulatory Management Regulatory Reduction Guide (April 2023)

Office of Regulatory Management Procedures on Guidance Documents (October 2024) o Regulatory Economic Analysis Manual (October 2024)

This Executive Order shall become effective on July 1, 2026, and shall remain in full force and effect until June 30, 2030, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 30th day of June 2026.

/s/ Abigail D. Spanberger, Governor

EXECUTIVE ORDER NUMBER 18 (2026)

DESIGNATION OF EXECUTIVE BRANCH OFFICERS AND EMPLOYEES REQUIRED TO FILE FINANCIAL DISCLOSURE STATEMENTS

The State and Local Government Conflict of Interests Act (the "Act") reflects the Commonwealth's steadfast commitment to ensuring that public officers and employees maintain the highest standards of ethical behavior when conducting the business of the Commonwealth, avoiding even the appearance of impropriety arising out of personal economic interests.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including, but not limited to, § 2.2-3100 et seq. of the Code of Virginia, I hereby delegate to the Secretary of the Commonwealth the power and duty to implement the Act with respect to Executive Branch agencies, institutions, boards, commissions, councils, and authorities through the following policies and procedures:

1. By issuance of this Executive Order, the following Executive Branch officers and employees shall file a disclosure form, as prescribed in § 2.2-3117 of the Code of Virginia:

Office of the Governor

Chief of Staff and Deputy Chiefs of Staff

Secretaries, Deputy Secretaries, and Assistant Secretaries • Counsel's Office

Chief Transformation Officer, Chief Diversity Officer, Chief Energy Officer, and Deputies

Policy, Legislative, Regulatory, Federal Affairs, Communications, Strategic Engagement, Local Government Engagement, and Scheduling Directors and Deputies

Senior Advisors

Designated Special Assistants

Executive Branch Agencies

Agency Heads, Chief Deputies, and Deputies

Executive Directors, Directors, and Deputy Directors

Chief Administrative Officers and Deputies

Chief Financial Officers and Deputies

Chief Procurement Officers and Deputies

Chief Technology Officers and Deputies

Chief Human Resources Officer

Legislative Liaisons

Institutions of Higher Education

Presidents, Vice Presidents, Provosts, and Deans

Any other persons, as designated by the institution, including those persons with approval authority over contracts or audits

Executive Branch Authorities

Authorities established within the Executive Branch

All persons within this group shall file the form prescribed in § 2.2-3118 of the Code of Virginia, unless required by law to file the form prescribed in § 2.2-3117 of the Code of Virginia

Executive Branch Appointees

All non-salaried citizen members of Executive Branch advisory boards, commissions, and councils shall file the form prescribed in § 2.2-3118 of the Code of Virginia

Appointees to boards or commissions who are salaried, such as the Parole Board, shall file the form prescribed in § 2.2-3117 of the Code of Virginia

2. Each of the Governor's Secretaries and the head of each agency, institution, board, commission, council, and authority within the Executive Branch shall submit to the Secretary of the Commonwealth on or before October 1, 2026, a report identifying by name and job title the positions that are required to file a Statement of Economic Interests. Each agency's report shall include a list of other senior-level positions with responsibility affecting legislative policies and rulemaking authority or substantive authorization and decision making regarding: (1) policy; (2) contracts and procurement; (3) audits; (4) licensure; (5) inspections and investigations; and (6) investments or other financial matters.

From the reports submitted, the Secretary of the Commonwealth shall maintain a comprehensive list of officers and employees, including their position titles, who shall be designated to file a Statement of Economic Interests. The Secretary of the Commonwealth may add or delete positions on the list.

3. The heads of each agency, institution, board, commission, council, and authority within the Executive Branch shall be responsible for ensuring that designated officers and employees file their statements of economic interests in accordance with § 2.2-3114 of the Code of Virginia. This responsibility includes (a) obtaining a Statement of Economic Interests from each new officer or employee, so long as the officer or employee is hired for a position previously designated; (b) ensuring that appropriate additions to and deletions from the list of those designated to file are recommended to the Secretary in a timely fashion; and (c) ensuring that appropriate employees receive the necessary orientation on the State and Local Government Conflict of Interests Act in accordance with the provisions of § 2.2-3128 of the Code of Virginia.

Effective Date of the Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 2030, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 30th day of June 2026.

/s/ Abigail D. Spanberger, Governor

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

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

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (http://www.townhall.virginia.gov) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

BOARD OF ACCOUNTANCY

Titles of Documents: Education Handbook.

Electronic Participation in Virginia Board of Accountancy Meetings.

Public Comment Deadline: August 26, 2026.

Effective Date: August 27, 2026.

Agency Contact: Alessandra Gabriel, Information and Policy Advisor, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 376-0728, or email alessandra.gabriel@boa.virginia.gov.

STATE BOARD OF EDUCATION

Titles of Documents: Child Care Subsidy Program Guidance Manual.

Guidelines for Notification and Reporting of Communicable Diseases.

Guidelines for Practice Year Two of the Early Childhood Unified Measurement and Improvement System.

Virginia's Textbook Review Process.

Public Comment Deadline: August 26, 2026.

Effective Date: August 27, 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.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: Addiction and Recovery Treatment Services Peer Recovery Supplement.

Developmental Disability Waiver - Customized Rate - Provider Guidelines.

Long-Term Services and Support Screening Manual, Chapter 4.

Nursing Facility Manual, Chapter 4.

Pharmacy Manual, Chapter 7.

Practitioner Manual, Chapter 2.

Temporary Detention Orders Supplement.

Public Comment Deadline: August 26, 2026.

Effective Date: August 27, 2026.

Agency Contact: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, or email syreeta.stewart@dmas.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

Titles of Documents: Virginia Motorcycle Rider Training Program Policy and Procedures.

Obtaining a Virginia Driver's License or Identification Card.

Obtaining a Virginia Driver Privilege Card.

Virginia Rider Training Program Training Site License Application.

Public Comment Deadline: August 26, 2026.

Effective Date: August 27, 2026.

Agency Contact: Nicholas Megibow, Director of Legislative Services, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-6701, or email nicholas.megibow@dmv.virginia.gov.

MOTOR VEHICLE DEALER BOARD

Title of Document: Guidelines for Maintaining and Storing Records Off Site.

Public Comment Deadline: August 26, 2026.

Effective Date: August 27, 2026.

Agency Contact: Ann Majors, Operations Manager, Motor Vehicle Dealer Board, 2201 West Broad Street, Suite 104, Richmond, VA 23229, telephone (804) 367-1100, ext. 3016#, or email ann.majors@mvdb.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for CLV Holdings LLC

The Virginia Department of Environmental Quality is proposing an enforcement action for CLV Holdings LLC for violations of the State Water Control Law, regulations, and applicable permit at the Amherst storage facility located in Amherst, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 26, 2026.

Contact Information: Megan Wisdom, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email megan.wisdom@deq.virginia.gov.

Proposed Enforcement Action for Greenlight Investments LLC

The Virginia Department of Environmental Quality is proposing an enforcement action for Greenlight Investments LLC for violations of the State Water Control Law, regulations, and applicable permit at the Old Cox Road Spoils Site project located in Chase City, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 26, 2026.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

Proposed Enforcement Action for Matt Sherfey

The Virginia Department of Environmental Quality is proposing an enforcement action for Matt Sherfey for violations of the State Water Control Law, regulations, and applicable permit at the Sherfey Poultry Houses facility located in Mount Jackson, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 26, 2026.

Contact Information: Megan Wisdom, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email megan.wisdom@deq.virginia.gov.

Proposed Enforcement Action for PC Oak Village MHC LLC

The Virginia Department of Environmental Quality is proposing an enforcement action for PC Oak Village MHC LLC for violations of the State Water Control Law, regulations, and applicable permit at the PC Oak Village MHC LLC sewage treatment plant located in Vinton, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 27, 2026.

Contact Information: Joseph Heller, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, or email joseph.r.heller@deq.virginia.gov.

Proposed Enforcement Action for Perdue Agribusiness LLC

The Virginia Department of Environmental Quality is proposing an enforcement action for Perdue Agribusiness LLC for violations of the State Water Control Law, regulations, and applicable permit at the Perdue Agribusiness Chesapeake facility located in Chesapeake, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 26, 2026.

Contact Information: Russell Deppe, Department of Environmental Quality, Enforcement Specialist, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Shenandoah Baptist Church Inc.

The Virginia Department of Environmental Quality is proposing an enforcement action for Shenandoah Baptist Church Inc. for violations of the State Water Control Law, regulations, and applicable permit at the Camp Eagle sewage treatment plant facility located in Fincastle, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 27, 2026.

Contact Information: Joseph Heller, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, or email joseph.r.heller@deq.virginia.gov.

Proposed Enforcement Action for Sulphur Springs Investment Corporation

The Virginia Department of Environmental Quality is proposing an enforcement action for Sulphur Springs Investment Corporation for violations of the State Water Control Law, regulations, and applicable permit at the Fauquier Springs Country Club sewage treatment plant facility located in Warrenton, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 26, 2026.

Contact Information: Katherine Mann, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email katherine.mann@deq.virginia.gov.

Proposed Enforcement Action for the County of Westmoreland

The Virginia Department of Environmental Quality is proposing an enforcement action for Westmoreland County for violations of the State Water Control Law, regulations, and applicable permit at the Montross-Westmoreland wastewater treatment plant located in Montross, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from July 27, 2026, to August 26, 2026.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Opportunity for Public Review of Intent to Amend State Plan - Private Duty Nursing under EPSDT

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

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the contact listed. This notice is available for public review on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

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

In accordance with Item 291 JJJJJ 4 of Chapter 1 of the 2026 Acts of Assembly, Special Session I, the state plan is being revised to increase the rates for private duty nursing services under the early and periodic screening, diagnostic, and treatment (EPSDT) benefit by 5.0%. A corresponding rate increase will be provided for these services under home and community- based waivers. These increases are not included in the state plan amendment but via waiver documentation.

The expected increase in annual fee-for-service aggregate expenditures is $27,289 in state general funds and $27,718 in federal funds in federal fiscal year (FFY) 2026 and $165,778 in state general funds and $165,911 in federal funds in FFY 2027.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of and Public Comment on Intent to Amend State Plan - Rate Ceilings for Psychiatric Residential Treatment Facilities and Addiction and Recovery Treatment Services Residential Services Providers

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

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the contact listed.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted in writing within 30 days of this notice publication to the contact listed. Comments are available for review at the address listed. Comments may also be submitted in writing on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

Methods & Standards for Establishing Payment Rates; In-Patient Hospital Care (12VAC30-70)

In accordance with Items 291 BB 6 and BB 7 of Chapter 1 of the 2026 Acts of Assembly, Special Session I, the state plan is being revised to maintain the rate ceilings that were in effect as of June 30, 2026, for psychiatric residential treatment facilities (PRFTs) and participating addiction and recovery treatment services (ARTS) residential services. Effective July 1, 2026, DMAS shall eliminate rebasing and inflation adjustments for PRTFs and qualifying ARTS residential services providers.

The expected decrease in annual fee-for-service aggregate expenditures is $428,179 in state general funds and $486,363 in federal funds in federal fiscal year (FFY) 2026 and $3,044,313 in state general funds and $3,352,203 in federal funds in FFY 2027.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of and Public Comment on Intent to Amend State Plan - Removal of Inflation Adjustments

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care (12VAC30-70), Methods and Standards for Establishing Payment Rate; Other Types of Care (12VAC30-80), and Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the contact listed.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted in writing within 30 days of this notice publication to the contact listed. Comments are available for review at the address listed. Comments may also be submitted in writing on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care (12VAC30-70), Methods and Standards for Establishing Payment Rate; Other Types of Care (12VAC30-80), and Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90)

In accordance with Item 291 PPPPP of Chapter 1 of the 2026 Acts of Assembly, Special Session I, the state plan is being revised to eliminate inflation adjustments for hospital rates, freestanding psychiatric facilities, disproportionate share hospitals (DSH) payments, graduate medical education payments, nursing facilities, and any other provider rates for fiscal year (FY) 2027 and FY 2028. DMAS shall exclude the value of withheld expected FY 2027 and FY 2028 inflation adjustments from future inflation adjustments and hospital and nursing facility rebasings.

The expected decrease in annual fee-for-service aggregate expenditures is $1,697,130 in state general funds and $3,011,087 in federal funds in federal fiscal year (FFY) 2026 and $12,600,620 in state general funds and $22,386,610 in federal funds in FFY 2027.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of Intent to Amend State Plan - Supplemental Payments for Services Provided by Physicians at Freestanding Children's Hospitals

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

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the contact listed. This notice is available for public review on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

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

In accordance with the Virginia Medicaid State Plan (Supplement 6 to Attachment 4.19-B) and 12VAC30-80-300, the state plan is being amended to update the average commercial rate (ACR) calculation for supplemental payments for services provided by physicians at Virginia's freestanding children's hospitals effective July 1, 2026. The updated ACR percentage of Medicare will be 218%.

The anticipated fee-for-service expenditures are $357,639 in state general funds and $363,262 in federal funds in federal fiscal year (FFY) 2026, and $1,441,225 in state general funds and $1,442,378 in federal funds in FFY 2027.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th

Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at https://commonwealthcalendar.virginia.gov.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at http://register.dls.virginia.gov/documents/cumultab.pdf.

Filing Material for Publication in the *Virginia Register of Regulations:* Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Titles of Regulations: **13VAC10-180. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.**

13VAC10-181. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

Publication: 42:24 VA.R 2198-2209; July 13, 2026.

Correction to Proposed Regulation:

Page 2198, column 2,

after "Public hearing information:" line 1, change "October 12" to "August 31"

after "Public comment deadline:" change "October 12" to "August 31"

VA.R. Doc. No. R26-8725; Filed July 7, 2026, 1:21 p.m.

VIRGINIA WASTE MANAGEMENT BOARD

Titles of Regulations: **9VAC20-70. Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities.**

9VAC20-81. Solid Waste Management Regulations.

Publication: 42:24 VA.R 2157; July 13, 2026.

Correction to Notice of Intended Regulatory Action:

Page 2157, column 1, Agency Contact, after "Road," remove "P.O. Box 3000,"

VA.R. Doc. No. R26-8725; Filed July 7, 2026, 1:21 p.m.