VIRGINIA
REGISTER OF REGULATIONS

VOL. 43 ISS. 3 | PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION | September 21, 2026

TABLE OF CONTENTS

Virginia Code Commission | **http://register.dls.virginia.gov**

THE VIRGINIA REGISTER OF REGULATIONS (USPS 001-831) is published biweekly for $923.00 per year by Matthew Bender & Co. Inc., 555 Middle Creek Parkway, Suite GL31 Library, Colorado Springs, CO 80921. Periodical postage paid at Colorado Springs, CO, and additional mailing offices. POSTMASTER: Send address changes to The Virginia Register of Regulations, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

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).

October 2026 through October 2027

Volume: Issue	Material Submitted By Noon*	Will Be Published On
43:4	September 16, 2026	October 5, 2026
43:5	September 30, 2026	October 19, 2026
43:6	October 14, 2026	November 2, 2026
43:7	October 28, 2026	November 16, 2026
43:8	November 10, 2026 **(Tuesday)**	November 30, 2026
43:9	November 23, 2026 **(Monday)**	December 14, 2026
43:10	December 9, 2026	December 28, 2026
43:11	December 21, 2026 **(Monday)**	January 11, 2027
43:12	January 5, 2027 **(Tuesday)**	January 25, 2027
43:13	January 20, 2027	February 8, 2027
43:14	February 3, 2027	February 22, 2027
43:15	February 17, 2027	March 8, 2027
43:16	March 3, 2027	March 22, 2027
43:17	March 17, 2027	April 5, 2027
43:18	March 31, 2027	April 19, 2027
43:19	April 14, 2027	May 3, 2027
43:20	April 28, 2027	May 17, 2027
43:21	May 12, 2027	May 31, 2027
43:22	May 26, 2027	June 14, 2027
43:23	June 9, 2027	June 28, 2027
43:24	June 23, 2027	July 12, 2027
43:25	July 7, 2027	July 26, 2027
43:26	July 21, 2027	August 9, 2027
44:1	August 4, 2027	August 23, 2027
44:2	August 18, 2027	September 6, 2027
44:3	September 1, 2027	September 20, 2027
44:4	September 15, 2027	October 4, 2027
44:5	September 29, 2027	October 18, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF ENERGY

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Energy conducted a periodic review and a small business impact review of **4VAC25-20, Board of Coal Mining Examiners Certification Requirements**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated September 1, 2026, to support this decision.

The department has determined that this regulation is necessary for the protection of public health, safety, and welfare. The regulation is vital to ensuring the safety of underground mines in the Commonwealth. The regulation is clearly written and easily understandable. The department recommends that this regulation be retained as is.

This regulation is mandated by statute. The department has determined this regulation is effective as currently written and does not burden small businesses. There are no known overlaps or conflicts with federal or state law.

Contact Information: Michael Skiffington, Regulatory Coordinator, Department of Energy, 1100 Bank Street, 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3212, fax (804) 692-3237, TDD (800) 828-1120, or email mike.skiffington@energy.virginia.gov.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Criminal Justice Services Board conducted periodic reviews and small business impact reviews of **6VAC20-90, Rules Relating to Criminal Justice Training Academies,** and **6VAC20-280, Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Field Training Officers**, and determined that these regulations should be amended. The Notices of Intended Regulatory Action, which are published in this issue of the Virginia Register, serve as the reports of findings.

Agency Contact: Lee Bryant, Regulatory Specialist, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-1863, FAX (804) 786-0410, or email lee.bryant@dcjs.virginia.gov.

TITLE 13. HOUSING

VIRGINIA MANUFACTURED HOUSING BOARD

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **13VAC6-11, Public Participation Guidelines,** and **13VAC6-20, Manufactured Housing Licensing and Transaction Recovery Fund Regulations**.

The reviews will be guided by the principles in Executive Order 17 (2026). The purpose of these reviews is to determine whether the regulations should be repealed, amended, or retained in their current forms. Public comment is sought on the review of any issue relating to the regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins September 21, 2026, and ends October 12, 2026.

Comments must include the commenter's name and address (physical or email) in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

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

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Criminal Justice Services Board intends to consider amending **6VAC20-90, Rules Relating to Regional Criminal Justice Training Academies**. The purpose of the proposed action is to amend the regulation following a periodic review to update documents incorporated by reference and requirements, clarify language, and remove obsolete provisions.

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

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

Public Comment Deadline: October 21, 2026.

Agency Contact: Lee Bryant, Regulatory Specialist, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-1863, FAX (804) 786-0410, or email lee.bryant@dcjs.virginia.gov.

VA.R. Doc. No. R27-8520; Filed August 25, 2026, 8:31 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 Criminal Justice Services Board intends to consider amending **6VAC20-280, Rules Relating to Compulsory Minimum Training Standards for Law Enforcement Field Training Officers**. The purpose of the proposed action is to amend the regulation following a periodic review to update requirements, clarify language, and remove obsolete provisions.

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

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

Public Comment Deadline: October 21, 2026.

Agency Contact: Lee Bryant, Regulatory Specialist, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-1863, FAX (804) 786-0410, or email lee.bryant@dcjs.virginia.gov.

VA.R. Doc. No. R27-8522; Filed August 25, 2026, 8:32 a.m.

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

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF WILDLIFE RESOURCES

Final 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.

Effective Date: October 1, 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 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:

EDITOR'S NOTE: No changes from the proposed regulation, as published in 42:25 VA.R. 2234-2237 July 27, 2026, were made to the Virginia Resident License to Hunt, Virginia Resident Licenses for Additional Hunting Privileges, Virginia Nonresident Licenses to Hunt, Virginia Nonresident Licenses for Additional Hunting Privileges, Miscellaneous Licenses or Permits to Hunt, Virginia Resident and Nonresident Licenses to Trap, Virginia Resident Licenses to Fish, Virginia Nonresident Licenses to Fish, and Miscellaneous Licenses or Permits to Fish tables, so those tables are not being published.

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~~ July 21, 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.

EDITOR'S NOTE: No changes from the proposed regulation, as published in 42:25 VA.R. 2234-2237 July 27, 2026, were made to subsections B, C, D, and E of this section, so those subsections are not being published.

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 August 26, 2026, 3:44 p.m.

Final 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.

Effective Date: October 1, 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 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 August 26, 2026, 3:48 p.m.

Final 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.

Effective Date: October 1, 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 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 August 26, 2026, 4:08 p.m.

Final 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.

Effective Date: January 1, 2027.

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 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).

EDITOR'S NOTE: No changes from the proposed regulation, as published in 42:25 VA.R. 2241-2246 July 27, 2026, were made to the table listing creel and length limits for fish in Virginia waterbodies, so those sections are not being published.

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 August 26, 2026, 4:10 p.m.

Final 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.

Effective Date: January 1, 2027.

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 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 August 26, 2026, 4:15 p.m.

Final 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.

Effective Date: January 1, 2027.

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 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 August 26, 2026, 4:20 p.m.

Final 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.

Effective Date: January 1, 2027.

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 amendments add provisions relating to the use of juglines, limblines, and trotlines in the South Holston Reservoir.

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 August 26, 2026, 4:33 p.m.

Final 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.

Effective Date: January 1, 2027.

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 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)~~ <u>(Leuciscidae)</u>, <u>madtoms,</u> 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, <u>and of which no more than 20 individuals may be madtoms,</u> unless the person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders<u>, madtoms,</u> 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 <u>or madtom</u> 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 August 26, 2026, 4:39 p.m.

Final 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.

Effective Date: January 1, 2027.

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

~~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.~~ <u>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.</u>

<u>1. Authorized waterway markers must be placed in accordance with all department conditions.</u>

<u>2. Written approval of the department must be obtained before relocation of any marker.</u>

<u>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.</u>

<u>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.</u>

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

<u>E.</u> 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~~ <u>the</u> Commonwealth.

~~M.~~ <u>F.</u> It shall be unlawful to moor or attach a vessel to a marker other than an approved mooring buoy~~,~~ or <u>to</u> move, remove, displace, tamper with, damage<u>,</u> or destroy a marker authorized by the department, placed by an agency of the United States<u>,</u> or placed by a political subdivision of ~~this~~ <u>the</u> 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~~ <u>the</u> marker or aid to ensure visibility, readability<u>,</u> and proper placement of the marker or aid to navigation <u>in accordance with department requirements or authorization for markers placed under 4VAC15-370-50</u>. The department may remove, have removed<u>,</u> 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 August 26, 2026, 4:45 p.m.

Final Regulation

<u>REGISTRAR'S NOTICE:</u> 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.

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

<u>Statutory Authority:</u> §§ 29.1-701 and 29.1-735 of the Code of Virginia.

<u>Effective Date:</u> October 1, 2026.

<u>Agency Contact:</u> 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.

<u>Summary:</u>

The 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 August 26, 2026, 4:50 p.m.

Final 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.

Effective Date: January 1, 2027.

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 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 August 26, 2026, 4:54 p.m.

Final 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.

Effective Date: January 1, 2027.

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 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 above displacement speed.

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~~ above] displacement [~~mode~~ speed], 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 August 26, 2026, 5:04 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Fast-Track Regulation

Title of Regulation: **9VAC25-210. Virginia Water Protection Permit Program Regulation (amending 9VAC25-210-320, 9VAC25-210-340, 9VAC25-210-360).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

Agency Contact: Eric Seavey, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 754-6250, or email eric.seavey@deq.virginia.gov.

Basis: Section 62.1-44.15 of the Code of Virginia authorizes the State Water Control Board to adopt regulations to enforce the general water quality management program of the board in all or part of the Commonwealth. Section 62.1-44.15:22 of the Code of Virginia authorizes the board to include conditions in a Virginia Water Protection (VWP) permit regarding the volume of water that may be withdrawn as part of the permitted activity and conditions necessary to protect beneficial uses.

Purpose: This action is essential to the public health, safety, and welfare because it clarifies the regulation, which protects water quality in the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: This action is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments improve clarity and certainty for the regulated community and the agency by making requirements in the VWP regulation consistent with the amendments to Local and Regional Water Supply Planning (9VAC25-780) that became effective October 9, 2024. The updates to the affected sections do not change existing requirements for a potential applicant or an applicant for a VWP permit.

Substance: The amendments (i) update references and terminology to clarify pre-application procedures for new or expanded surface water withdrawals under the VWP Permit Program; (ii) remove a reference in 9VAC25-210-340 to a repealed section; and (iii) change the term "local and regional water supply plan" to "water supply plan" for consistency with recent amendments to 9VAC25-780.

Issues: There are no direct impacts on the public. There are no disadvantages to the public. The primary advantage to the agency is that the amendments will allow the agency and surface water permit applicants under the VWP Permit Program to utilize regulations that reflect current requirements in the State Water Control Law and the Local and Regional Water Supply Planning regulation and improve the understanding of the VWP regulation, which in turn contributes to the efficient and effective functioning of government. There are no disadvantages to the agency or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The State Water Control Board (board) proposes to update references and terminology and amend text for clarity.

Background. On October 9, 2024, updates to the Local and Regional Water Supply Planning (9VAC25-780) regulation became effective in response to Chapter 1105 of the 2020 Acts of Assembly. Prior to the updates, local governments had the option of either submitting a local water supply plan or participating in a regional planning unit in the submittal of a regional water supply plan. However, Chapter 1105 eliminated the option of submitting a local water supply plan. This elimination was reflected in one of the updates to 9VAC25-780, and other sections of this regulation were also repealed for clarity. However, the current Virginia

Water Protection Permit Program Regulation (9VAC25-210) still has several references to "local or regional water supply plan." Since localities now must plan regionally and may no longer submit a local water supply plan, the board proposes to remove "local or regional" in each instance where the phrase "local or regional water supply plan" appears in the current regulation. In addition, certain references in the current Virginia Water Protection Permit Program Regulation are not accurate because they refer to sections of the Local and Regional Water Supply Planning regulation that were repealed in 2024. Consequently, the Board also proposes to update those references.

Estimated Benefits and Costs. The proposed amendments do not change existing requirements. Nevertheless, the proposed amendments are moderately beneficial in that clarity is improved for readers of the regulation, and the use of updated references will also help readers find the applicable information in those references.

Businesses and Other Entities Affected. The Virginia Water Protection Permit Program Regulation primarily applies to surface water withdrawal permittees. Out of 109 active Virginia water protection surface water withdrawal permits, there are 51 municipal, 19 commercial, 15 hydropower, 6 fossil fuel power, 6 irrigation, 6 mining, 4 agricultural, 1 industrial, and 1 nuclear power permittees. The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.[2] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[3] The proposed amendments neither increase net cost nor reduce net benefit for any entity. Thus, no adverse impact is indicated.

Small Businesses[4] Affected.[5] The proposed amendments do not adversely affect small businesses.

Localities[6] Affected.[7] The proposed amendments neither disproportionately affect any particular locality nor affect costs for local governments.

Projected Impact on Employment. The proposed amendments do not affect employment.

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

[1] See § 2.2-4007.04 A of the Code of Virginia.

[2] See § 2.2-4007.04 D of the Code of Virginia.

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

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

[5] See §§ 2.2-4007.04 A and 2.2-4007.1 C of the Code of Virginia.

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

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

Agency Response to Economic Impact Analysis: The State Water Control Board has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The amendments conform the Virginia Water Protection Permit Program Regulation (9VAC25-210) to recent amendments to Local and Regional Water Supply Planning (9VAC25-780) by removing "local or regional" from the description of water supply plans, clarifying pre-application procedures, and removing obsolete cross-references.

9VAC25-210-320. Preapplication procedures for new or expanded surface water withdrawals.

A. Preapplication review panel. At the request of a potential applicant for a surface water withdrawal proposing to the Department of Environmental Quality to withdraw 90 million gallons a month or greater, a preapplication review panel shall be convened prior to submission of a VWP application. The preapplication review panel shall assist potential applicants that are proposing surface water withdrawals with the early identification of issues related to the protection of beneficial instream and offstream uses of state waters and the identification of the affected stream reach. DEQ shall notify the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, the Virginia Department of Wildlife Resources, the Virginia Department of Conservation and Recreation, the Virginia Department of Health, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, and other appropriate local, state, and federal agencies of the preapplication review panel request. These agencies shall participate to the extent practicable in the preapplication review panel by providing information and guidance on the potential natural resource impacts and regulatory implications of the options being considered by the applicant and shall provide comments within 60 days of the initial meeting of the preapplication panel.

B. Preapplication public notice. For new or expanded surface water withdrawals requiring an individual VWP permit and proposing to withdraw 90 million gallons a month or greater, a potential applicant shall provide information on the project, shall provide an opportunity for public comment on the proposed project, and shall assist in identifying public concerns or issues prior to filing a VWP individual permit application.

1. Except as provided in this subsection, the potential applicant shall provide for publication of notice once a week

for two consecutive weeks in a newspaper of general circulation serving the locality where the surface water withdrawal is proposed to be located.

2. If requested by any person, the potential applicant shall hold at least one public information meeting. Notice of any public information meeting held pursuant to this subsection shall be provided at least 14 days prior to the public information meeting date and shall be published in the same manner as required in subdivision 1 of this subsection. A potential applicant shall submit the notice to DEQ for posting on the DEQ website. At a minimum, any notice required by this subsection shall include:

a. A statement of the potential applicant's intent to apply for a VWP permit for a surface water withdrawal;

b. The proposed location of the surface water withdrawal;

c. Information on how the public may request a public information meeting or, in the alternative, the date, time, and location of the public information meeting;

d. The name, address, and telephone number of the potential applicant~~,~~ or an authorized representative who can answer questions or receive comments on the proposed surface water withdrawal; and

e. A statement of how oral or written public comments will be used.

3. ~~In accordance with the provisions of 9VAC25-780-50 C 11 and 9VAC25-780-150, a~~ The potential applicant shall not be required to publish public notice or provide an opportunity for a public information meeting if ~~a~~:

a. A public meeting has been held within two years prior to the submittal of an application for a VWP permit on a ~~local or regional~~ water supply plan, which includes the proposed project; and

b. The public meeting was held in accordance with 9VAC25-780-55 or 9VAC25-780-150.

4. The potential applicant shall maintain a list of persons making comment and their addresses and shall make a good faith effort to notify commenters at the address provided by the commenter when the public notice for the draft VWP individual permit is available.

9VAC25-210-340. Application requirements for surface water withdrawals.

A. Persons proposing to initiate a new or expanded surface water withdrawal not excluded from requirements of this chapter by 9VAC25-210-310, proposing to reapply for a current permitted withdrawal, or a Federal Energy Regulatory Commission (FERC) license or relicense associated with a surface water withdrawal, shall apply for a VWP permit.

B. In addition to informational requirements of 9VAC25-210-80 B and, if applicable, 9VAC25-210-80 C, applications for surface water withdrawals or a FERC license or relicense associated with a surface water withdrawal shall include:

1. As part of identifying the project purpose, a narrative describing the water supply issues that form the basis of the proposed project purpose.

2. The drainage area, the average annual flow and the median monthly flows at the withdrawal point, and historical low flows if available.

3. The average daily withdrawal; the maximum daily, monthly, annual, and instantaneous withdrawals; and information on the variability of the demand by season. If the project has multiple intake structures, provide for each individual intake structure and the cumulative volumes for the entire surface water withdrawal system.

4. The monthly consumptive use volume in million gallons and the average daily return flow in million gallons per day of the proposed project and the location of the return flow, including the latitude and longitude and the drainage area in square miles at the discharge point.

5. Information on flow dependent beneficial uses along the affected stream reach. For projects that propose a transfer of water resources from a major river basin to another major river basin, this analysis should include both the source and receiving basins.

a. Evaluation of the flow dependent instream and offstream beneficial uses. Instream beneficial uses include the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include domestic (including public water supply), agricultural, electric power generation, and commercial and industrial uses.

b. The aquatic life, including species and habitat requirements.

c. How the proposed withdrawal will alter flows.

6. Information on the proposed use of and need for the surface water and information on how demand for surface water was determined (e.g., per capita use, population growth rates, new uses, changes to service areas, and if applicable, acreage irrigated and evapotranspiration effects). If during the water supply planning process, the need for the withdrawal was established, the applicant may submit the planning process information, provided that the submittal addresses all requirements of 9VAC25-210-360. The department shall deem such a submittal as meeting the requirements of this subsection. For surface water withdrawals for public water supply, see also 9VAC25-780-100 ~~and 9VAC25-780-130~~.

7. Information describing the intake structure, to include intake screen mesh size and intake velocity.

8. For withdrawals proposed from an impoundment, the following:

a. Description of the flow or release control structures, including the minimum rate of flow, in cubic feet per second, size and capacity of the structure, and the mechanism to control the release.

b. Surface area in acres, maximum depth in feet, normal pool elevation, total storage capacity, and unusable storage volume in acre-feet.

c. The stage-storage relationship. For example, the volume of water in the impoundment at varying stages of water depth.

9. Whether the proposed surface water withdrawal is addressed in the water supply plan that covers the area in which the withdrawal is proposed to be located. If the proposed withdrawal is included, provide a discussion as to how the proposed withdrawal is addressed in the water supply plan, specifically in terms of projected demand, analysis of alternatives, and water conservation measures. If all or a portion of the withdrawn water will be transferred to an area not covered by the plan, the discussion shall also include the water supply plan for the area of the receiving watershed.

10. An alternatives analysis for the proposed surface water withdrawal, including at a minimum the criteria in 9VAC25-210-360.

11. For new or expanded surface water withdrawals proposing to withdraw 90 million gallons a month or greater, a summary of the steps taken to seek public input as required by 9VAC25-210-320 and an identification of the issues raised during the course of the public information meeting process.

12. For new or expanded surface water withdrawals that involve a transfer of water between major river basins that may impact a river basin in another state, a plan describing procedures to notify potentially affected persons, both in and outside of Virginia, of the proposed project.

13. For surface water withdrawals, other than for public water supply, information to demonstrate that alternate sources of water supply are available to support the operation of the facility during times of reduced instream flow.

14. For surface water withdrawals for public water supply, a water auditing plan for an annual water loss audit in accordance with the American Water Works Association (AWWA) methodology for water loss auditing using the most recent version of the AWWA Water Audit Software or another methodology approved by the department that estimates water loss.

a. A water loss audit using an approved methodology shall be conducted annually. The requirement to conduct an annual water loss audit shall begin upon permit issuance. By the end of the first year of the permit term, the permittee shall submit documentation to the department that the water loss audit has been initiated. This documentation shall include activities completed during the first year of the permit term.

b. The applicant shall report the results of the annual water loss audits in a report submitted at a minimum of every three years.

15. For surface water withdrawals for public water supply, a leak detection and repair plan shall be submitted. The leak detection and repair plan shall indicate how its implementation will be informed by the results of the annual water loss audit process and shall be updated during each new permit term. The plan shall include:

a. A description of how the water loss audit results are expected to inform prioritization of actions to address water loss;

b. Where practicable, a process for the identification of equipment needs to quantify and reduce water loss;

c. Where practicable, a schedule for inspection of equipment and distribution systems for actual water losses; and

d. In the report required by subdivision B 14 b of this section, a description of the plan's effectiveness in addressing water loss, including revisions to those elements of the leak detection and repair plan that can be improved over the short term and long term.

16. For surface water withdrawals for commercial and industrial users, a water auditing plan for a water loss audit to be conducted beginning in the first three years of the permit term. The plan shall include a description of the methodology used to determine the water loss for the operation and the quantity of water used throughout the facility.

a. A water audit using this methodology shall be conducted once every three years. The requirement to conduct a water loss audit shall begin upon permit issuance. The permittee shall submit documentation to include activities completed during the first three years of the permit term.

b. The applicant shall conduct a water loss audit and report the results of the water loss audits in a report submitted every three years.

17. For surface water withdrawals for commercial and industrial users, a leak detection and repair plan shall be submitted. The leak detection and repair plan shall indicate how its implementation will be informed by the results of the water loss audit process and shall be updated during each new permit term. The plan shall include:

a. A description of how the water audit results are expected to inform prioritization of actions to address water loss;

b. Where practicable, a process for the identification of equipment needs to quantify and reduce water loss;

c. Where practicable, a schedule for inspection of equipment and piping systems for actual water losses; and

d. In the report required by subdivision B 16 b of this section, a description of the leak detection and repair plan's effectiveness in addressing water loss, including revisions to those elements of the leak detection and repair plan that can be improved over the short term and long term.

18. For surface water withdrawals for agricultural users, a water auditing plan for an annual water loss audit that shall be conducted annually or periodically based on agricultural management plans or irrigation management plans, including the anticipated crop rotation schedule or livestock growth stages. The water auditing plan shall include an estimate of water loss for the agricultural operation and a description of the methodology used to determine the quantity of water used throughout the agricultural operation.

a. A water audit using this methodology shall be conducted. The requirement to conduct a water loss audit shall begin upon permit issuance. By the end of the first year of the permit term, the permittee shall submit documentation to the department that the water loss audit has been initiated. This documentation shall include activities completed during the first year of the permit term.

b. The applicant shall report the results of the water loss audit in a report submitted at a minimum every three years.

19. For surface water withdrawals for agricultural users, a leak detection and repair plan shall be submitted. The leak detection and repair plan shall indicate how its implementation will be informed by the results of the water loss audit process and shall be updated during each new permit term. The plan shall include:

a. A description of how the water audit results are expected to inform prioritization of actions to address water loss;

b. Where practicable, a schedule for inspection of equipment and distribution systems for actual water losses; and

c. In the report required by subdivision B 18 b of this section, a description of the leak detection and repair plan's effectiveness in addressing water loss, including revisions to those elements of the leak detection and repair plan that can be improved over the short term and long term.

C. Applications for an Emergency Virginia Water Protection Permit.

1. Applications for an Emergency Virginia Water Protection Permit to address a public water supply emergency shall include the information noted in subdivisions 1 a through 1 o of this subsection. The JPA may be used for emergency application purposes, provided that all of the information in subdivisions 1 a through 1 o of this subsection is included:

a. The applicant's legal name, mailing address, telephone number, and if applicable, fax number and email address;

b. If different from applicant, name, mailing address, telephone number, and if applicable, fax number and email address of property owner;

c. If applicable, authorized agent's name, mailing address, telephone number, and if applicable, fax number and email address;

d. Name of ~~water body or~~ water bodies~~,~~ or receiving waters, as applicable;

e. Name of the city or county where the project occurs;

f. Signed and dated signature page (electronic submittals containing the original signature page, such as that contained in a scanned document file are acceptable);

g. Permit application fee in accordance with 9VAC25-20;

h. The drainage area, the average annual flow and the median monthly flows at the withdrawal point, and historical low flows if available;

i. Information on the aquatic life along the affected stream reach, including species and habitat requirements;

j. Recent and current water use, including monthly water use in the previous calendar year and weekly water use in the six months prior to the application. The application shall identify the sources of such water and also identify any water purchased from other water suppliers;

k. A description of the severity of the public water supply emergency, including (i) for reservoirs, an estimate of days of remaining supply at current rates of use and replenishment; (ii) for wells, current production; and (iii) for intakes, current streamflow;

l. A description of mandatory water conservation measures taken or imposed by the applicant and the dates when the measures were implemented; for the purposes of obtaining an Emergency Virginia Water Protection Permit, mandatory water conservation measures shall include the prohibition of lawn and landscape watering, vehicle washing, watering of recreation fields, refilling of swimming pools, and washing of paved surfaces;

m. An estimate of water savings realized by implementing mandatory water conservation measures;

n. Documentation that the applicant has exhausted all management actions that would minimize the threat to public welfare, safety, and health and will avoid the need to obtain an emergency permit and that are consistent with existing permit limitations; and

o. Any other information that demonstrates that the condition is a substantial threat to public health or safety.

2. Within 14 days after the issuance of an Emergency Virginia Water Protection Permit, the permit holder shall apply for a VWP permit under the other provisions of this chapter.

9VAC25-210-360. Evaluation of project alternatives for surface water withdrawals.

The applicant shall demonstrate to the satisfaction of the department that the project meets an established need for water to meet the project purpose. In establishing need, the applicant shall provide the following information:

1. Existing supply sources, yields, and demands, including:

a. Peak day and average daily withdrawal;

b. The public water supply safe yield and lowest daily flow of record;

c. Types of water uses; and

d. Existing water conservation measures and drought response plan, including what conditions trigger their implementation.

2. Projected demands over a minimum 30-year planning period, including the following:

a. Projected demand contained in the ~~local or regional~~ water supply plan developed in accordance with 9VAC25-780 or for the project service area, if such area is smaller than the planning area; if applicable or

b. Statistical population (growth) trends; if applicable, projected demands by use type; projected demand without water conservation measures; and projected demands with long-term water conservation measures.

3. Any alternatives analysis conducted specifically for withdrawals for public water supply shall include:

a. The range of alternatives to be analyzed by the applicant as follows:

(1) All applicable alternatives contained in the ~~local or regional~~ water supply plan developed in accordance with 9VAC25-780;

(2) Alternatives that are practicable or feasible from both a technical and economic standpoint that had not been identified in the ~~local or regional~~ water supply plan developed in accordance with 9VAC25-780;

(3) Alternatives that are available to the applicant but not necessarily under the current jurisdiction of the applicant; and

(4) Water conservation measures that could be considered as a means to reduce demand for each alternative considered by the applicant.

b. The applicant shall provide a narrative description that outlines the opportunities and status of regionalization efforts undertaken by the applicant.

c. The criteria used to evaluate each alternative for the purpose of establishing the least environmentally damaging practicable alternative, which includes ~~but is not limited to~~:

(1) Demonstration that the proposed alternative meets the project purpose and project demonstrated need as documented pursuant to this section;

(2) Availability of the alternative to the applicant;

(3) Evaluation of interconnectivity of water supply systems, both existing and proposed;

(4) Evaluation of the cost of the alternative on an equivalent basis;

(5) Evaluation of alternative public water supply safe yields;

(6) Presence and potential impact of alternative on state and federally listed threatened and endangered species;

(7) Presence and potential impact of alternative on wetlands and streams (based on maps and aerial photos for all alternatives, field delineation required for preferred alternative);

(8) Evaluation of effects on instream flow; and

(9) Water quality considerations, including:

(a) Land use within a watershed where the type of land use may impact the water quality of the source;

(b) The presence of impaired streams and the type of impairment;

(c) The location of point source discharges; and

(d) Potential threats to water quality other than those listed in this subdivision 3 c (9).

4. Any alternatives analysis conducted for surface water withdrawals other than for public water supply shall include the following items of subdivision 3 of this section: subdivisions 3 a (3), 3 a (4), and 3 c. The analysis shall also include applicable items of subdivisions 3 a (1), 3 a (2), and 3 b <u>of this section</u>.

VA.R. Doc. No. R27-8598; Filed July 31, 2026, 8:53 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Fast-Track Regulation

<u>Title of Regulation:</u> **12VAC30-10. State Plan under Title XIX of the Social Security Act Medical Assistance Program; General Provisions (amending 12VAC30-10-130).**

<u>Statutory Authority:</u> § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

<u>Public Hearing Information:</u> No public hearing is currently scheduled.

<u>Public Comment Deadline:</u> October 21, 2026.

Effective Date: November 5, 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, fax (804) 786-1680, TDD (800) 343-0634, or email syreeta.stewart@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia authorizes the Board of Medical Assistance Services to administer and amend the State Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia grants the Director of the Department of Medical Assistance Services (DMAS) the authority of the board when it is not in session.

Purpose: This amendment is essential to protect the health, safety, and welfare of citizens because it corrects a cross-reference in the Virginia Administrative Code (VAC), aligning regulatory text with the State Plan.

Rationale for Using Fast-Track Rulemaking Process: This regulatory change is expected to be noncontroversial because the action removes a repealed statute and replaces it with the correct VAC citation.

Substance: The amendment updates a cross-reference.

Issues: The primary advantage of this action for the public, the agency, and the Commonwealth is that it aligns the regulation with the State Plan and DMAS current practices. The change creates no disadvantage to the public, the agency, the Commonwealth, or the regulated community.

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. As a result of an internal assessment at the Department of Medical Assistance Services, the Board of Medical Services (board) is proposing to update an outdated citation.

Background. 12VAC30-10-130 states the following: "An advance directive shall be defined as a written instruction, such as a living will or durable power of attorney for health care, recognized under state law and relating to the provision of medical care when the individual is incapacitated. Each specified provider receiving funds under this Plan must maintain written policies, procedures, and materials concerning advance directives to ensure compliance with the law. The specified providers shall be: hospitals, nursing facilities, providers of home health care or personal care services, hospices, health maintenance organizations and health insuring organizations. Refer to 12VAC30-20-70 for further requirements." 12VAC30-20-70 was repealed in 1995.[2] The current section of Administration of Medical Assistance Services that has the relevant further requirements is 12VAC30-20-240. Thus, the board proposes to replace 12VAC30-20-70 with 12VAC30-20-240 in the text 12VAC30-10-130.

Estimated Benefits and Costs. The proposed amendment does not change requirements, but may be beneficial in that it could make it easier for readers of the regulation to find relevant requirements.

Businesses and Other Entities Affected. The proposed amendment may affect readers of the regulation. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[3] 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.[4] The proposal neither increases net costs nor reduces net benefits for ant entity. Thus, no adverse impact is indicated.

Small Businesses[5] Affected.[6] The proposed amendment does not adversely affect small businesses.

Localities[8] Affected.[9] The proposed amendment neither disproportionally affects any particular locality nor affects costs for local governments.

Projected Impact on Employment. The proposed amendment does not affect employment.

Effects on the Use and Value of Private Property. The proposed amendment affects neither the use and value of private property nor real estate development costs.

---

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

[2] See https://law.lis.virginia.gov/admincode/title12/agency30/chapter20/section70/.

[3] 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.

[4] 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.

[5] 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."

[6] 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.

[7] "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.

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

Agency Response to Economic Impact Analysis: The Department of Medical Assistance Services has reviewed the economic impact analysis prepared by the Department of Planning and Budget and raises no issues with this analysis.

Summary:

The amendment updates a cross-reference to a section in the Virginia Administrative Code.

12VAC30-10-130. Requirements for advance directives.

An advance directive shall be defined as a written instruction, such as a living will or durable power of attorney for health care, recognized under state law and relating to the provision of medical care when the individual is incapacitated. Each specified provider receiving funds under this State Plan must maintain written policies, procedures, and materials concerning advance directives to ensure compliance with the law. The specified providers shall be~~:~~ hospitals, nursing facilities, providers of home health care or personal care services, hospices, health maintenance organizations, and health insuring organizations.

Refer to ~~12VAC30-20-70~~ 12VAC30-20-240 for further requirements.

VA.R. Doc. No. R27-8681; Filed August 21, 2026, 10:58 a.m.

Fast-Track Regulation

Title of Regulation: **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (adding 12VAC30-50-492).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 786-1680, TDD (800) 343-0634, or email meredith.lee@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia authorizes the Board of Medical Assistance Services to administer and amend the Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia grants the Director of the Department of Medical Assistance Services (DMAS) the authority of the board when it is not in session.

Purpose: This regulatory action is essential to protect the health, safety, and welfare of Medicaid and Children's Health Insurance Program (CHIP) members who demonstrate the need for these case management services because these services help individuals with severe brain injuries and their family members in accessing necessary medical, social, educational, and other services essential to meeting individual recovery goals.

Rationale for Using Fast-Track Rulemaking Process: This rulemaking is expected to be noncontroversial because these services are already being provided to eligible Medicaid and CHIP members.

Substance: The amendments establish new requirements for the coverage of Brain Injury Services Case Management services in 12VAC30-50-492.

Issues: The advantages of these changes to the public and the Commonwealth are that the amendments align the regulation with federal and state requirements. These changes create no disadvantages to the public, DMAS, the Commonwealth, or the regulated community.

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. Pursuant to Chapter 11 of the 2022 General Assembly Special Session I (Chapter 11),[2] the director of the Department of Medical Assistance Services, on behalf of the Board of Medical Assistance Services (board), proposes to establish regulations to provide targeted case management services for individuals with severe traumatic brain injury.

Background. Chapter 11 directed the board to start providing coverage for targeted case management services for individuals with severe traumatic brain injury. These services help individuals with severe brain injuries and their family members access necessary medical, social, educational and other services essential to meeting individual recovery goals. Following the passage of Chapter 11, the Department of Medical Assistance Services (DMAS) obtained approval from the Centers for Medicare and Medicaid Services on November 22, 2023, and May 17, 2024; DMAS started providing these services on January 1, 2024. This action would incorporate the provision of the services into the Virginia Administrative Code.

Estimated Benefits and Costs. The fiscal impact statement for Chapter 11 estimated that approximately 1,698 Medicaid members would be eligible for targeted case management services for severe brain injury and the total estimated annual expenditures would be $6,018,734 ($1,782,456 in general fund and $4,236,278 in federal match) in fiscal year 2025.[3] However, DMAS reports that the actual use of these services has remained significantly below the 2022 estimates. More specifically, in 2025 the total expenditures for this service amounted to $40,338 for 38 recipients. Of this total, $21,691 (approximately $10,930 in general fund and $10,761 in federal match) was for 20 recipients in traditional Medicaid and $18,647 (approximately $16,782 in provider assessment and $10,761 in federal match) was for 18 recipients in the Medicaid expansion population. Generally, provision of a new Medicaid service benefits recipients by addressing their health care needs; benefits providers by creating a new revenue source; brings in federal funds to the Commonwealth through the federal match; costs the state a portion of the total cost for traditional Medicaid (i.e., 50.39%); and costs the Medicaid providers a small portion of the total cost for Medicaid expansion (i.e., 10 percent) population. While similar effects would be expected in this case as well, it is notable that the actual case management expenditures in 2025 for recipients with severe brain injury were significantly lower than the projections. Additionally, the new expenditures result from the legislation rather than the regulation. Thus, the main effect of this regulatory action is compliance with the legislation.

Businesses and Other Entities Affected. This regulation directly applies to individuals in the traditional Medicaid and Medicaid expansion populations with severe brain injury, and to providers enrolled in Medicaid. In 2025, 38 recipients received this service, but the usage may grow over time based on the 2022 estimates. Currently, there are seven providers enrolled to provide these services. No entity appears to be particularly impacted. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] The main effect of this regulatory action is compliance with the legislation. Thus, no adverse impact is indicated on account of this regulatory action.

Small Businesses[6] Affected.[7] The proposed amendments do not adversely affect small businesses.

Localities[8] Affected.[9] The proposed amendments do not introduce costs for localities, nor do they particularly affect any locality.

Projected Impact on Employment. No impact on employment is expected on account of this regulatory action.

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

---

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

[2] https://legacylis.virginia.gov/cgi-bin/legp604.exe?222+ful+CHAP0011.

[3] https://legacylis.virginia.gov/cgi-bin/legp604.exe?222+oth+HB680F122+PDF.

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

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

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

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

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

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

Agency Response to Economic Impact Analysis: The Department of Medical Assistance Services has reviewed the economic impact analysis prepared by the Department of Planning and Budget and raises no issues with this analysis.

Summary:

Coverage for targeted case management for individuals with severe brain injuries was approved by the Centers for Medicare and Medicaid Services on November 22, 2023, and May 17, 2024, and the amendments incorporate those changes into the Virginia Administrative Code in the State Plan for Medical Assistance for both Medicaid and Children's Health Insurance Program members.

12VAC30-50-492. Brain injury services case management.

A. Brain injury case management services are intended for Medicaid and Family Access to Medical Insurance Security (FAMIS) eligible individuals 18 years of age and older who have a physician or primary care physician documented diagnosis of a severe traumatic brain injury (TBI). Individuals younger than 21 years of age may receive case management services through other state plan options, including developmental disability case management (12VAC30-50-490), mental health and addictions treatment case management (12VAC30-50-430 and 12VAC30-50-491), treatment foster care case management (12VAC30-50-480), or early intervention case management for individuals younger than three years of age (12VAC30-50-415) who meet the criteria to receive case management services. Medicaid and FAMIS eligible individuals who qualify for other state plan targeted case management options may only receive one targeted case management service at a time. The individual will need to choose the targeted case management service option that meets individualized service and support needs. Brain damage secondary to other neurological insults (e.g., infection of the brain, stroke, brain tumor, Alzheimer's disease, and similar neuro-degenerative diseases) shall not be covered. The TBI shall be severe as indicated by a T-score of 50 or above on the Mayo-Portland Adaptability Inventory (MPAI-4).

B. Case management services will be made available for up to 180 days consecutive days of a covered stay in a medical institution. This does not apply to individuals between 22 and 64 years of age who are served in institutions for mental disease or individuals who are inmates of public institutions.

C. Services will be provided to the entire state.

D. Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Social Security Act (the Act) is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

E. Brain injury services case management services are services furnished to assist individuals eligible under the State Plan in gaining access to needed medical, social, educational, and other services. An individual receiving brain injury services case management services shall have an individual service plan that requires a minimum of one brain injury services case management service activity each month and at least one face-to-face contact with the individual at least every 90 calendar days.

Brain injury case management service activities to be provided shall include:

1. Comprehensive assessment and periodic reassessment of individual needs, to determine the need for any medical, educational, social, or other services, including services provided as an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) service if applicable. These assessment activities include:

a. Taking client history;

b. Identifying the individual's needs and completing related documentation;

c. Gathering information from other sources such as family members, medical providers, social workers, and educators (if necessary) to form a complete assessment of the eligible individual; and

d. Periodic reassessments, including evaluating and updating the individual's progress toward meeting the individual service plan objectives and shall occur as needed and at a minimum every 90 calendar days during a review of the individual service plan with the individual.

2. Development (and periodic revision) of a specific individual service plan that is based on the information collected through the assessment that:

a. Specifies the goals and actions to address the medical, social, educational, and other services needed by the individual;

b. Includes activities, such as ensuring the active participation of the eligible individual and working with the individual (or the individual's authorized health care decision maker) and others to develop those goals; and

c. Identifies a course of action to respond to the assessed needs of the eligible individual.

3. Referral and related activities, such as scheduling appointments for the individual, to help the eligible individual obtain needed services, including activities that help link the individual with medical, social, educational providers, or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the individual service plan, and

a. Enhancing and linking to community integration through increased opportunities for community access and involvement, such as opportunities to learn living skills to promote community adjustment to the maximum extent possible, vocational, civic, recreational services, and the use of other local community resources available to the general public;

b. Making collateral contacts for the direct benefit of the individual with the individual's significant others (i.e., legally responsible individuals, legal guardians, service providers, anyone with a role in the individual's recovery) with properly authorized releases to promote implementation of the individual's individual service plan and community adjustment;

c. Assisting the individual directly to locate, develop, or obtain needed services, resources, and appropriate public benefits to promote implementation of the individual's individual service plan and community adjustment; and

d. Ensuring the coordination of services and service planning within a provider agency, with other providers, and with other human service agencies and systems, such as local health and social services departments.

4. Monitoring and follow-up activities:

a. Activities and contacts necessary to ensure the individual service plan is implemented and adequately addresses the eligible individual's needs that may be with the individual, family members, service providers, or other entities or individuals and conducted as frequently as necessary and including at least one annual monitoring to determine whether the following conditions are met:

(1) Services are being furnished in accordance with the individual's individual service plan;

(2) Services in the individual service plan are adequate; and

(3) Changes in the needs or status of the individual are reflected in the individual service plan. Monitoring and follow-up activities include making necessary adjustments in the individual service plan and service arrangements with providers.

b. On an annual basis, the person-centered individual service plan is conducted to review current status and changes from previous years. It also includes a review of provider plans. As needed outside the annual review, the case manager may convene a meeting to re-evaluate the appropriateness of the plan if the individual's needs have changed. Case managers conduct reviews every 90 calendar days of a services plan and effectiveness of that plan to determine if it remains appropriate and whether modifications are needed.

F. Brain injury services case management includes contacts with noneligible individuals who are directly related to identifying the eligible individual's needs and care, for the purposes of helping the eligible individual access services; identifying needs and supports to assist the eligible individual in obtaining services; providing case managers with useful feedback, and alerting case managers to changes in the eligible individual's needs.

G. Qualifications of providers:

1. The provider of brain injury case management services must meet the following criteria:

a. The enrolled provider must be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) or be licensed by the Department of Behavioral Health and Developmental Services (DBHDS) as a provider of case management services;

b. The enrolled provider shall guarantee that individuals have access to emergency services on a 24-hour basis;

c. The enrolled provider shall demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid or Children's Health Insurance Program (CHIP) reimbursement;

d. The enrolled provider must have the administrative and financial management capacity to meet state and federal requirements; and

e. The enrolled provider must have the ability to document and maintain individual case records in accordance with state and federal requirements.

2. Providers may bill Medicaid or CHIP for brain injury case management only when the services are provided by a professional or professionals who meet the following criteria:

a. At least a bachelor's degree from an accredited college or university and a Qualified Brain Injury Support Provider (QBISP) or Certified Brain Injury Specialist (CBIS) or

b. Licensure by the Commonwealth as a registered nurse and a QBISP or CBIS.

H. The state ensures that the provision of brain injury case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.

1. Eligible recipients will have free choice of the providers of brain injury services case management services.

2. Eligible recipients will have free choice of the providers of other services under the plan.

I. The Commonwealth ensures the following regarding access to services:

1. Case management services will not be used to restrict an individual's access to other Medicaid or CHIP services.

2. Individuals will not be compelled to receive case management services, condition receipt of case management services on receipt of other Medicaid or CHIP services, or condition receipt of other Medicaid or CHIP services on receipt of case management services, and the receipt of case management services shall not be a condition for receipt of other Medicaid or CHIP services.

3. Providers of case management services do not exercise Department of Medical Assistance (DMAS) authority to authorize or deny the provision of other Medicaid or CHIP services.

J. Payment for brain injury case management services under the State Plan does not duplicate payments for other case management made to public agencies or private entities under other program authorities for this same purpose.

K. Brain injury case management shall not include the following:

1. Activities not consistent with the definition of case management services in 42 CFR 440.169.

2. The direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred.

3. Activities integral to the administration of foster care programs.

4. Activities for which third parties are liable to pay, except for case management that is included in an individualized education program or individualized family service plan consistent with § 1903(c) of the Act.

VA.R. Doc. No. R25-7965; Filed August 27, 2026, 12:06 p.m.

Fast-Track Regulation

Title of Regulation: **12VAC30-122. Community Waiver Services for Individuals with Developmental Disabilities (amending 12VAC30-122-60).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 786-1680, TDD (800) 343-0634, or email meredith.lee@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia authorizes the Board of Medical Assistance Services to administer and amend the Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia grants the Director of the Department of Medical Assistance Services (DMAS) the authority of the board when it is not in session.

Purpose: The purpose of this action is to incentivize employment for individuals receiving developmental disabilities (DD) waiver services by allowing a percentage of earned income to be disregarded when calculating the individual contribution to the cost of waiver services when earning income, which directly impacts individual welfare. This enables individuals enrolled in the DD waiver to keep more of their income without losing financial eligibility for the waiver. This does not result in new individuals being added to the DD waiver.

Rationale for Using Fast-Track Rulemaking Process: These amendments are expected to be noncontroversial because the post-eligibility special earnings allowance incentivizes employment for individuals receiving waiver services.

Substance: The amendments lower the number of hours from at least eight hours but less than 20 hours per week to at least four hours but less than 20 hours per week for waiver participants, allowing a percentage of earned income to be disregarded when calculating individual contribution to the cost of waiver services when earning income.

Issues: A primary advantage of this regulatory change to the public and Commonwealth is that it allows individuals with intellectual or developmental disabilities to obtain employment and keep a larger portion of their earnings, which improves their overall well-being. These amendments create no disadvantages to the public, the agency, the Commonwealth, or the regulated community.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The Board of Medical Assistance Services (board) seeks to adjust the post-eligibility special earnings allowance for Developmental Disabilities (DD) waiver services, as mandated by the 2022 Appropriations Act. The proposed changes would simply update the regulation to reflect current practice, because the 2022 mandate has already been implemented.

Background. Individuals under the Family and Individual Supports Waiver, Community Living Waiver, and Building Independence Waiver, which are collectively known as the DD Waivers, receive payments from the Department of Medical Assistance Services (DMAS) to cover the costs of home and community-based services. 12VAC30-122-60 establishes the patient pay methodology, reduces this payment by individual total income after certain deductions have been made for personal maintenance needs, other dependents, and medical needs. These deductions include a special earnings allowance for individuals who are employed: 300% of Social Security Income (SSI) for individuals working 20 or more hours a week, and 200% for individuals working eight to 20 hours per week.[2] Item 304 ZZ of the 2022 Appropriations Act directed DMAS to adjust the special earnings allowance for DD waiver recipients by lowering the minimum number of hours from eight to four, thereby allowing more part-time workers to retain their income (up to 200% of SSI, which is $1,988 per month for 2026)[3] and not have that amount be subtracted from their benefits.[4] Accordingly, the board seeks to make this change in two places in 12VAC30-122-60 B 3 a applies to individuals subject to § 1924(d) of the Social Security Act (married individuals with an institutionalized spouse and a non-institutionalized spouse), and in subsection B 3 b, which applies to individuals not subject to § 1924(d) of the Social Security Act (single individuals or married individuals where both spouses are institutionalized).

Estimated Benefits and Costs. The proposed amendments would benefit readers of the regulation by ensuring that the regulation is clear and conforms to statute and current practice. The underlying mandate would benefit DD waiver recipients who are able to work part-time by allowing those who work between four to eight hours a week to avoid reductions to their benefits. Conversely, maintaining the benefit amounts for these workers removes a potential reduction in expenditure for DMAS; however, since this change was made through the Appropriations Act, any resulting fiscal impacts do not result from this regulatory change. DD waiver applications are processed through community services boards, and DMAS delegates waiver operational authority to the Department of Behavioral Health and Developmental Services (DBHDS) through an interagency agreement. DBHDS has certain employment targets for adults who are aged 18 to 64 years on DD waivers. Expanding the special earnings allowance for part-time work could also support DBHDS in meeting the employment targets.

Businesses and Other Entities Affected. DBHDS data indicates that there are approximately 20,240 individuals with a DD waiver and another 14,258 individuals on the waitlist.[5] A DBHDS semi-annual report indicates that 1,138 individuals with DD waivers were employed as of December 2025.[6] The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.[7] 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.[8] The proposed amendments implement the provisions of the 2022 Appropriations Act and reflect current practice. Thus, an adverse impact is not indicated.

Small Businesses[9] Affected.[10] The proposed amendments would not adversely affect small businesses.

Localities[11] Affected.[12] The proposed amendments would neither affect any locality in particular, nor introduce costs for local governments.

Projected Impact on Employment. The proposed amendments are intended to incentivize part-time employment for individuals with DD waivers; any impact to this effect would result from the budget mandate.

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

---

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

[2] Although the current regulatory text does not include the eight hour minimum, DMAS has confirmed that it was applied in practice.

[3] See https://www.ssa.gov/oact/cola/SSIamts.html.

[4] This change was also made for individuals in the Commonwealth Coordinated Care Plus Program. See https://townhall.virginia.gov/L/ViewStage.cfm?stageid=9986.

[5] See https://dbhds.virginia.gov/wp-content/uploads/2026/01/Developmental-Disability-Waivers-2026.pdf.

[6] See page 76 of https://dbhds.virginia.gov/wp-content/uploads/2026/06/FY26-June-Semi-Annual-Report_Final.pdf.

[7] 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.

[8] 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.

[9] 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."

[10] 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.

[11] "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.

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

Agency Response to Economic Impact Analysis: The Department of Medical Assistance Services has reviewed the economic impact analysis prepared by the Department of Planning and Budget and raises no issues with this analysis.

Summary:

The Special Earnings Allowance for developmental disabilities (DD) waiver participants allows a percentage of earned income to be disregarded when calculating the individual contribution to the cost of waiver services when earning income. The amendments lower to at least four hours but less than 20 hours per week the requirement for a disregard of up to 200% Supplemental Security Income (SSI), and a disregard of up to 300% for individuals who work 20 hours or more per week.

12VAC30-122-60. Financial eligibility standards for individuals.

A. Individuals receiving services under the Family and Individual Supports (FIS) Waiver, Community Living (CL) Waiver, and Building Independence (BI) Waiver, which are collectively known as the Developmental Disabilities (DD) Waivers, shall meet the following Medicaid eligibility requirements. The Commonwealth shall apply the financial eligibility criteria contained in the State Plan for Medical Assistance for the categorically needy and in 12VAC30-30-10 and 12VAC30-40-10. The Commonwealth covers the optional categorically needy groups under 42 CFR 435.211, 42 CFR 435.217, and 42 CFR 435.230.

B. Patient pay methodology.

1. The income level used for 42 CFR 435.211, 42 CFR 435.217, and 42 CFR 435.230 shall be 300% of the current supplemental security income (SSI) payment standard for one person.

2. Under the DD Waivers, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act shall be considered as if ~~they~~ the coverage groups were institutionalized for the purpose of applying institutional deeming rules. All individuals under the waivers shall meet

the financial and nonfinancial Medicaid eligibility criteria and meet the institutional level-of-care criteria for an ICF/IID. The deeming rules shall be applied to waiver eligible individuals as if the individuals were residing in an ICF/IID or would require that level of care.

3. The Commonwealth shall reduce its payment for home and community-based waiver services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income, including amounts disregarded in determining eligibility, that remains after allowable deductions for personal maintenance needs, other dependents, and medical needs have been made according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986 (42 USC § 1395ww). DMAS shall reduce its payment for home and community-based waiver services by the amount that remains after the deductions listed in this subdivision:

a. For individuals to whom § 1924(d) of the Social Security Act applies and for whom the Commonwealth waives the requirement for comparability pursuant to § 1902(a)(10)(B), DMAS shall deduct the following in the respective order:

(1) The basic maintenance needs for an individual under the DD Waivers, which shall be equal to 165% of the SSI payment for one person. Due to expenses of employment, a working individual shall have an additional income allowance. For an individual employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% of SSI; for an individual employed <u>at least four but</u> less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's total monthly income, shall be added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI.

(2) For an individual with only a spouse at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act.

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges, and necessary medical or remedial care recognized under state law but not covered under the State Plan for Medical Assistance.

b. For individuals to whom § 1924(d) does not apply and for whom the Commonwealth waives the requirement for comparability pursuant to § 1902(a)(10)(B), DMAS shall deduct the following in the respective order:

(1) The basic maintenance needs for an individual under the DD Waivers, which is equal to 165% of the SSI payment for one person. Due to expenses of employment, a working individual shall have an additional income allowance. For an individual employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% of SSI; for an individual employed <u>at least four but</u> less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's total monthly income, shall be added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI.

(2) For an individual with a dependent child, an additional amount for the maintenance needs of the child, which shall be equal to the Title XIX medically needy income standard based on the number of dependent children.

(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges, and necessary medical or remedial care recognized under state law but not covered under the State Plan for Medical Assistance.

VA.R. Doc. No. R27-7340; Filed August 21, 2026, 10:59 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Final Regulation

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

Title of Regulation: **18VAC15-30. Lead-Based Paint Activities Regulations (amending 18VAC15-30-20, 18VAC15-30-460, 18VAC15-30-470, 18VAC15-30-490, 18VAC15-30-510, 18VAC15-30-511, 18VAC15-30-541, 18VAC15-30-550, 18VAC15-30-620, 18VAC15-30-650).**

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Effective Date: November 1, 2026.

Agency Contact: Jeannette Galanis, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, fax (866) 350-5354, or email alhi@dpor.Virginia.gov.

Background: The Virginia Board for Asbestos, Lead, and Home Inspectors is amending the Lead-Based Paint Activities Regulations to comport with recent changes to 40 CFR Part 745, which provides for federal regulations governing lead-based paint activities, including the identification and abatement of lead-based paint hazards. As mandated by the Code of Virginia, the regulations of the board must be consistent with, but not more stringent than, standards for performing lead-based paint activities established by the U.S. Environmental Protection Agency (EPA). The recent changes to the EPA lead-based paint standards reduce the level of lead in dust that is considered dangerous and lower the amount of lead that can remain in dust on floors, window sills, and window troughs following a lead paint abatement.

Summary:

The amendments include (i) replacing the term "clearance levels" with "action levels" throughout the regulation; (ii) revising rules regarding the determination of when a dust-lead hazard is present, including specifying that a hazard is present when amount of dust-lead meets a reportable level as defined in the regulation; (iii) revising rules regarding abatement of dust-lead hazards to provide that dust-lead levels following an abatement must be below action level amounts specified by EPA; (iii) revising abatement report standards to include a required disclosure when post-abatement dust-lead testing levels are below dust-lead action levels, but at or above dust-lead reportable levels; and (iv) technical changes.

18VAC15-30-20. Definitions.

A. Section 54.1-500 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Accredited lead training program"

"Board"

"Lead-based paint"

"Lead-contaminated soil"

"Lead contractor"

"Lead project design"

"Lead risk assessment"

"Person"

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

"Abatement" or "abatement project" means any measure or set of measures designed to permanently eliminate lead-based paint hazards, in the case of dust-lead hazards to below the action levels.

1. "Abatement" includes:

a. The removal of lead-based paint and lead-contaminated dust (in the case of dust-lead hazards to below the action levels), the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of lead-contaminated soil, when lead-based paint hazards are present in such paint, dust, or soil;

b. All preparation, cleanup, disposal, and post-abatement ~~clearance~~ testing activities associated with such measures;

c. Lead-based paint activities for which there is a written contract or other documentation that provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:

(1) Will result in the permanent elimination of lead-based paint hazards, in the case of dust-lead hazards to below action levels; or

(2) Are designed to permanently eliminate lead-based paint hazards, in the case of dust-lead hazards to below action levels;

d. Lead-based paint activities resulting in the permanent elimination of lead-based paint hazards, in the case of dust-lead hazards to below action levels, unless such projects are covered by subdivision 2 of this definition; and

e. Lead-based paint activities resulting in the permanent elimination of lead-based paint hazards, in the case of dust-lead hazards to below action levels, that are conducted in response to state or local abatement orders.

2. Abatement does not include renovation, remodeling, landscaping, or other activities when such activities are not designed to permanently eliminate lead-based paint hazards, in the case of dust-lead hazards to below action levels, but instead are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards, in the case of dust-lead hazards to below the action levels.

"Action levels" mean the values that indicate the amount of lead in dust on a surface following completion of an abatement activity. To complete abatement when dust sampling is required, values below these levels must be achieved.

"Applicant" means a person who submits an application to the board.

"Application" means a completed board-prescribed form submitted with the appropriate fee and other required documentation.

"Child-occupied facility" means a building or portion of a building constructed prior to 1978 that is visited regularly by the same child younger than six years of age ~~or younger,~~ on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours, the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include day care centers, preschools, and kindergarten classrooms.

~~"Clearance levels" means values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.~~

"Common area" means a portion of a building generally accessible to all occupants, including hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

"Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling or child-occupied facility that are distinguished from each other by form, function, and location. These include interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills, stools, and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners, and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, facias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes, wells, and air conditioners.

"Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

"Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

"Course test" means an evaluation of the overall effectiveness of the training that will test the trainee's knowledge and retention of the topics covered during the course.

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

"Deteriorated paint" means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate building component.

"Discipline" means one of the specific types or categories of lead-based paint activities established in this chapter for which individuals must receive training from accredited lead training providers and become licensed by the board.

"Distinct painting history" means application history, as indicated by visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

"Documented methodologies" means methods or protocols used to sample for the presence of lead in paint, dust, and soil.

"Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

"Encapsulation" means the application of an encapsulant.

"Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

"Environmental remediation activity" means any activity planned or carried out for the purpose of reducing or eliminating any environmental hazard, including activities necessary to train individuals in the proper or lawful conduct of such activities, which are regulated by federal or state law or regulation.

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

"Financial interest" means financial benefit accruing to an individual or to a member of the individual's immediate family. Such interest exists by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds or may be reasonably anticipated to exceed $2,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or a combination thereof, paid or provided by a business that exceeds or may reasonably be expected to exceed $2,000 annually; or (iv) ownership of real or personal property if the interest exceeds $2,000 in value.

"Firm" means any company, partnership, corporation, sole proprietorship, association, or any other form of business organization recognized under the laws of the Commonwealth of Virginia.

"Guest instructor" means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

"Hands-on skills assessment" means an evaluation that tests the trainee's ability to satisfactorily perform the work practices and procedures identified in this chapter, as well as any other skills taught in a training course.

"Hazardous waste" means any waste as defined in 40 CFR 261.3.

"Housing for the elderly" means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older at the time of initial occupancy.

"HUD" means the U.S. Department of Housing and Urban Development.

"Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

"Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"Lead-based paint activities" means risk assessment, inspection, project design, and abatement as defined in this chapter that affects or relates to target housing and child-occupied facilities.

"Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by EPA.

"Lead-contaminated dust" means surface dust that contains an area or mass concentration of lead at or in excess of levels identified by ~~the~~ EPA pursuant to § 403 of the Toxic Substances Control Act (15 USC § 2683).

"Lead-hazard screen" means a limited risk assessment activity that involves limited paint and dust sampling.

"Licensed lead abatement supervisor" or "lead supervisor" means an individual who has met the requirements of this chapter and has been licensed by the board to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

"Licensed lead abatement worker" or "lead worker" means an individual who has met the requirements of this chapter and has been licensed by the board to perform abatements under the supervision of a licensed lead supervisor.

"Licensed lead inspector" or "lead inspector" means an individual who has met the requirements of this chapter and has been licensed by the board to conduct lead inspections. A licensed inspector may also sample for the presence of lead in dust and soil for the purposes of ~~abatement clearance~~ abatement-related testing.

"Licensed lead project designer" or "lead project designer" means an individual who has met the requirements of this chapter and has been licensed by the board to prepare abatement project designs, occupant protection plans, and abatement reports.

"Licensed lead risk assessor" or "lead risk assessor" means an individual who has met the requirements of this chapter and has been licensed by the board to conduct lead inspections and risk assessments. A licensed risk assessor may also sample for the presence of lead in dust and soil for the purposes of ~~abatement clearance~~ abatement-related testing.

"Licensee" means any person who has been issued and holds a valid license as a lead abatement worker, lead abatement supervisor, lead inspector, lead risk assessor, lead project designer, or lead abatement contractor.

"Living area" means any area of a residential dwelling used by one or more children younger than six years of age ~~and younger~~, including living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

"Multi-family dwelling" means target housing that contains more than one separate residential dwelling unit, in which one or more units is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

"OSHA" means the U.S. Occupational Safety and Health Administration.

"Paint in poor condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas; more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10% of the total surface area of the component is deteriorated on the interior or exterior components with small surface area (e.g., window sills, baseboards, soffits, trim).

"Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable material, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

"Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

"Recognized laboratory" means any environmental laboratory recognized by EPA as being capable of performing an analysis for lead compounds in paint, soil, and dust.

"Reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

"Reportable level" means the lowest analyte concentration or amount that does not contain a "less than" qualifier and that is reported with confidence for a specific method by a laboratory recognized by EPA under the Toxic Substances Control Act (15 USC § 2685).

"Residential dwelling" means (i) target housing that is a detached single-family dwelling, including attached structures such as porches and stoops, or (ii) target housing that is a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more individuals.

"Target housing" means any housing constructed prior to 1978, except ~~for~~ housing for the elderly or persons with disabilities or any zero-bedroom dwelling (unless any ~~one or more children~~ child who is younger than six years of age ~~or younger reside~~ resides or is expected to reside in such housing ~~for the elderly or persons with disabilities~~) ~~or any zero-bedroom dwelling~~.

"Training curriculum" means an established set of course topics for instruction in an accredited lead training program for a particular discipline designed to provide specialized knowledge and skills.

"Training hour" means at least 50 minutes of actual instruction, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.

"Training manager" means the individual responsible for administering a training program and monitoring the performance of the instructors.

"Visual inspection for ~~clearance~~ abatement-related testing" means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether the abatement has been successfully completed.

"Visual inspection for risk assessment" means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

"XRF" means x-ray fluorescence.

18VAC15-30-460. Initial training criteria for lead abatement supervisor.

A. The lead abatement supervisor course must last a minimum of 32 hours with a minimum of eight hours devoted to hands-on training. The training course must address the following topics:

1. Role and responsibilities of an abatement supervisor.

2. Background information on lead and the adverse health effects.

3. Background information on federal, state, and local regulations and guidance that pertains to lead-based paint activities, including distribution and thorough review of this chapter.

4. Liability and insurance issues relating to lead-based paint abatement.

5. Risk assessment and inspection report interpretation.

6. Development and implementation of an occupant protection plan and abatement report.

7. Lead-based paint hazard recognition and control methods.

8. Lead-based paint abatement or lead hazard reduction methods, including restricted work practices.

9. Interior dust abatement or cleanup or lead hazard reduction.

10. Soil and exterior dust abatement or lead hazard reduction.

11. ~~Clearance standards~~ Action levels and testing.

12. Clean-up and waste disposal.

13. Recordkeeping.

14. Examination.

B. The topics in subdivisions A 5~~,~~ and A 7~~, A 8, A 9, and~~ through A 10 of this section must include hands-on training.

18VAC15-30-470. Initial training criteria for lead inspector.

A. The lead inspector course must last a minimum of 24 hours with a minimum of eight hours devoted to hands-on training. The training course must address the following topics:

1. Background information on lead.

2. Health effects of lead.

3. Background information on federal, state, and local regulations and guidance that pertains to lead-based paint activities, including distribution and thorough review of this chapter.

4. Roles and responsibilities of the lead-based paint inspector.

5. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.

6. Paint, dust, and soil sampling methodologies.

7. Preparation of the final inspection report.

8. ~~Clearance standards~~ Action levels and testing, including random sampling.

9. Recordkeeping.

10. Examination.

B. The topics in subdivisions A 5~~, A 6, A 7, and~~ through A 8 of this section must include hands-on training.

18VAC15-30-490. Initial training criteria for lead project designer.

The lead project designer course must last a minimum of eight hours and must address the following topics:

1. Role and responsibilities of a project designer.

2. Development and implementation of an occupant protection plan for large scale abatement projects.

3. Lead-based paint abatement and lead-based paint hazard reduction methods for large scale abatement projects.

4. Interior dust abatement or cleanup or lead hazard control and reduction methods for large scale abatement projects.

5. ~~Clearance standards~~ Action levels and testing for large scale abatement projects.

6. Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

7. Examination.

18VAC15-30-510. General requirements.

A. This part establishes work practice standards for conducting lead-based paint activities in target housing and child-occupied facilities.

B. Notification must be sent by the licensed lead abatement contractor to the Virginia Department of Labor and Industry prior to the commencement of any lead-based paint abatement activities.

C. No lead contractor may enter into a contract to perform a lead abatement project if the lead inspection or project design is to be performed by individuals with an employer-employee relationship with, or financial interest in, the lead contractor unless the contractor provides the building owner with a "Virginia Lead Consumer Information and Disclosure Sheet," which is available from the board.

D. The relationships described in subsection C of this section must be disclosed, and the disclosure form must be signed and dated by the building owner or the building owner's agent and the contracting entity prior to the signing of any contract to conduct lead-based paint activities. The contractor must provide the disclosure form to all parties involved in the lead abatement project. The disclosure form must be kept on the lead abatement project site and available for review.

E. Persons licensed to perform post-abatement ~~clearance~~ procedures must be independent of and have no financial interest in or employer-employee relationship with the licensed lead abatement contractor.

F. When performing a lead-based paint inspection, lead-hazard screen, risk assessment, or abatement, a licensed individual must perform that activity in compliance with documented methodologies. The following documented methodologies that are appropriate for this chapter are incorporated by reference:

1. U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Second Edition, July 2012.

2. 40 CFR Part 745, Subpart D (~~January 6, 2020~~ November 12, 2024, update).

3. EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil (60 FR 47248-47257, September 11, 1995).

4. EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling, Final Report (EPA 747-R-95-001, March 1995).

G. Any lead-based paint activities, as described in this chapter, must be performed only by individuals licensed by the board to perform such activities.

H. All reports and plans required by 18VAC15-30-520 through 18VAC15-30-651 must be maintained by the licensed firm or individual who prepared the report for at least three years. The licensed firm or individual also must provide copies of these reports to the building owner or person who contracted for its services.

18VAC15-30-511. Determination of the presence of lead-based paint, a paint-lead hazard, a dust-lead hazard, and a soil-lead hazard.

A. Lead-based paint is present:

1. On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and

2. On any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

B. A paint-lead hazard is present:

1. On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in 40 CFR 745.65(b);

2. On any chewable lead-based paint surface on which there is evidence of teeth marks;

3. Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame); and

4. If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

C. ~~A dust-lead hazard is present in a~~ Dust-lead hazards and dust-lead action levels are identified for residential ~~dwelling or~~ dwellings and child-occupied ~~facility~~ facilities as follows:

1. ~~In~~ A dust-lead hazard is present in a residential dwelling or child-occupied facility on floors and interior window sills when the ~~weighted arithmetic mean~~ lead loading for ~~all~~ any single surface or composite samples of floors and interior window sills ~~are~~ is equal to or greater than ~~the amount identified in 40 CFR 745.227(h)(3)~~ any reportable level of dust-lead for floors and interior window sills; for projects where post-abatement dust-lead testing is required or otherwise performed, levels of lead in dust must be below the amounts identified in 40 CFR 745.227(h)(3);

2. ~~On~~ A dust-lead hazard is present on floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; for projects where post-abatement dust-lead testing is required or otherwise performed, levels of lead in dust must be below the amounts identified in 40 CFR 745.227(h)(3); and

3. ~~On~~ A dust-lead hazard is present on floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property; for projects where post-abatement dust-lead testing is required or otherwise performed, levels of lead in dust must be below the amounts identified in 40 CFR 745.227(h)(3).

D. A soil-lead hazard is present:

1. In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than the amount identified in 40 CFR 45.227(h)(4); or

2. In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., nonplay areas) for each residential building on a property is equal to or greater than the amount identified in 40 CFR 745.227(h)(4).

18VAC15-30-541. Lead hazard screen.

A. A lead hazard screen must only be conducted by individuals licensed by the board as a risk assessor.

B. If conducted, a lead hazard screen must be conducted as follows:

1. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children younger than six years of age ~~and younger~~ must be collected.

2. A visual inspection of the residential dwelling or child-occupied facility must be conducted to:

a. Determine if any deteriorated paint is present; and

b. Locate at least two dust sampling locations.

3. If deteriorated paint is present, each surface with deteriorated paint that is determined to be in poor condition by using documented methodologies and to have a distinct painting history must be tested for the presence of lead.

4. In residential dwellings, two composite dust samples must be collected, one from the floors and the other from the windows, in rooms, hallways, or stairwells where one or more children younger than six years of age ~~and younger~~ are likely to come in contact with dust.

5. In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in 18VAC15-30-550 B 4, the risk assessor must also collect composite dust samples from common areas where children younger than six years of age ~~and younger~~ are most likely to come into contact with dust.

C. Dust samples must be collected in the following manner:

1. All dust samples must be taken using documented methodologies that incorporate adequate quality control procedures.

2. All dust samples must be sent to a laboratory recognized by EPA as being capable of performing the analysis to determine if they contain detectable levels of lead that can be quantified numerically.

18VAC15-30-550. Risk assessment.

A. A risk assessment must only be conducted by individuals licensed by the board as risk assessors.

B. If conducted, a risk assessment must be conducted as follows:

1. A visual inspection for risk assessment of the residential dwelling or child-occupied facility must be undertaken to locate the existence of deteriorated paint, assess the extent and causes of deterioration, and other potential lead-based paint hazards.

2. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children younger than six years of age ~~and younger~~ must be collected.

3. The following surfaces that are determined, using documented methodologies, to have a distinct painting history must be tested for the presence of lead:

a. Each friction surface or impact surface with visibly deteriorated paint; and

b. All other surfaces with visibly deteriorated paint.

4. In residential dwellings, dust samples (either composite or single-surface samples) from any interior window sill and floor must be collected and analyzed for lead concentration in living areas where one or more children younger than six years of age ~~and younger~~ are most likely to come into contact with dust.

5. For multi-family dwellings and child-occupied facilities, the samples required in subdivision 3 of this subsection must be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) must be collected and analyzed for lead concentration in the following locations:

a. Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

b. Other common areas in the building where the risk assessor determines that one or more children younger than six years of age ~~and younger~~ are likely to come into contact with dust.

6. For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) must be collected and analyzed for lead concentration in each room, hallway, or stairwell utilized by one or more children younger than six years of age ~~and younger~~ and in other common areas in the child-occupied facility where one or more children younger than six years of age ~~and younger~~ are likely to come into contact with dust.

7. Soil samples must be collected and analyzed for lead concentrations in the following locations:

a. Exterior play areas where bare soil is present;

b. The rest of the yard (i.e., nonplay areas) where bare soil is present; and

c. Dripline or foundation areas where bare soil is present.

8. Any paint, dust, or soil sampling or testing must be conducted using documented methodologies that incorporate adequate quality control procedures.

9. Any collected paint chip, dust, or soil sample must be sent for analysis to a laboratory recognized by EPA as being capable of performing these activities.

18VAC15-30-620. Abatement.

A. Abatement must be conducted only by individuals licensed by the board as supervisors or workers and employed by a lead contractor.

B. A licensed lead abatement supervisor is required for each abatement project and must be on site during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the licensed supervisor must be on site or available by telephone, pager, or answering service and able to be present at the work site in no more than two hours.

C. The licensed lead abatement supervisor and the lead contractor employing the supervisor must ensure that all abatement activities are conducted according to the requirements of this chapter and all other federal, state, and local regulations.

D. A written occupant protection plan must be developed for all abatement projects and must be prepared according to the following procedures:

1. The occupant protection plan must be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant plan must describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazard.

2. A licensed lead abatement supervisor or lead project designer must prepare the occupant protection plan.

E. The following work practices must be restricted during an abatement:

1. Open-flame burning or torching of lead-based paint is prohibited.

2. Machine sanding or grinding or abrasive blasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97% or greater efficiency.

3. Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell or totaling no more than 20 square feet on exterior surfaces.

4. Operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F.

F. If the soil is removed:

1. The soil must be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.

2. The soil that is removed must not be used as topsoil at another residential property or child-occupied facility.

3. If soil is not removed, the soil must be permanently covered as defined in 18VAC15-30-20.

G. An abatement report must be prepared by a licensed lead abatement supervisor or lead project designer. The abatement report must include the following information:

1. Start and completion dates of abatement.

2. The name and address of each licensed lead abatement contractor conducting the abatements and the name of each licensed lead abatement supervisor assigned to the abatement project.

3. The occupant protection plan prepared pursuant to subsection D of this section.

4. The name, address, and signature of each licensed risk assessor or inspector conducting ~~clearance~~ post-abatement sampling and the date of ~~clearance testing~~ sampling.

5. The results of ~~clearance~~ post-abatement dust-lead testing and all soil analyses, if applicable, the name of each recognized laboratory that conducted the ~~analysis~~ analyses, and the name and signature of the person conducting the analysis.

6. A detailed written description of the abatement, including abatement methods used, locations of rooms and components where abatement occurred, and reason for selecting particular abatement methods for each component and any suggested monitoring of encapsulants or enclosures.

7. On or after January 12, 2026, when post-abatement dust-lead testing results are below the dust-lead action levels and at or above the dust-lead reportable levels, a dust-lead hazard statement with the language identified in 40 CFR 745.227(e)(10) must be included.

18VAC15-30-650. Post-abatement ~~clearance~~ testing procedures.

The following post-abatement ~~clearance~~ procedures must be performed by a licensed inspector or licensed risk assessor:

1. Following an abatement, a visual inspection must be performed by the licensed inspector or licensed risk assessor to determine if there are any deteriorated painted surfaces or visible amounts of dust, debris, or residue still present. If deteriorated painted surfaces or visible amounts of dust, debris, or residue are present, these conditions must be eliminated prior to the continuation of the ~~clearance~~ post-abatement testing procedures.

2. Following a ~~successful~~ visual inspection ~~for clearance~~, but no sooner than one hour after completion of final post abatement clean-up, ~~clearance~~ post-abatement sampling must be conducted.

3. ~~Clearance~~ Post-abatement sampling may be conducted by employing single-surface or composite sampling techniques and must be taken using documented methodologies that incorporate adequate quality control procedures.

4. The following post-abatement ~~clearance~~ testing activities must be conducted, as appropriate, based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility.

a. After conducting an abatement with containment between abated and unabated areas, one dust sample must be taken from one interior window sill and from one window trough (if present) and one dust sample must be taken from the floors of each of no less than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample must be taken from the floor outside the containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, and stairwells must be sampled.

b. After conducting an abatement with no containment, two dust samples must be taken from each of no less than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One dust sample must be taken from one interior window sill and window trough (if present), and one dust sample must be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways, and stairwells must be sampled.

c. Following an exterior paint abatement, a visual inspection must be conducted. All horizontal surfaces in the outdoor living area closest to the abated surfaces must be found to be cleaned of visible dust and debris. In addition, a visual inspection must be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable federal, state, and local requirements.

5. The rooms, hallways, or stairwells selected for sampling must be selected according to documented methodologies.

6. The licensed inspector or licensed risk assessor must compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with the ~~clearance~~ action levels, as established in 40 CFR 745.227(e)(8), for lead in dust on floors, interior window sills, and window troughs or from each composite dust sample with the applicable ~~clearance~~ action levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable ~~clearance~~ action level or if the residual lead level in a composite dust sample

equals or exceeds the applicable ~~clearance~~ action level divided by half the number of subsamples in the composite sample, the components represented by the failed sample must be recleaned and retested.

7. In multi-family dwellings with similarly constructed and maintained residential dwellings, random sampling for the purpose of ~~clearance~~ post-abatement testing may be conducted, provided:

a. The licensed individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

b. A sufficient number of residential dwellings are selected for dust sampling to provide a 95% level of confidence that no more than 5.0% or 50 dwellings (whichever is less) in the randomly sampled population exceed the appropriate ~~clearance~~ action levels.

c. The randomly selected residential dwellings must be sampled and evaluated ~~for clearance~~ according to the post-abatement testing procedures found in this chapter.

VA.R. Doc. No. R27-8586; Filed August 25, 2026, 7:02 a.m.

BOARD OF NURSING

Fast-Track Regulation

Titles of Regulations: **18VAC90-26. Regulations for Nurse Aide Education Programs (amending 18VAC90-26-20, 18VAC90-26-60).**

18VAC90-60. Regulations Governing the Registration of Medication Aides (amending 18VAC90-60-75).

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

Agency Contact: Claire Morris, RN, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4665, or email claire.morris@dhp.virginia.gov.

Basis: Regulations of the Board of Nursing are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which states that the general powers and duties of health regulatory boards is to promulgate regulations that are reasonable and necessary to administer effectively the regulatory system.

Purpose: This regulatory change is essential to protect the health, safety, and welfare of citizens because shorter review times help approve educational programs faster, which helps address the nursing workforce shortage in the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: This regulatory change is expected to be noncontroversial and is appropriate for the fast-track rulemaking process because the proposed amendments reduce barriers to informal conference approvals and streamline review in the Board of Nursing.

Substance: The amendments remove references that require the recommendation of the informal fact-finding conference shall go before the Board of Nursing for review and action.

Issues: The primary advantages to the public are reducing the lengthy review time for nursing education programs, thereby increasing the availability of programs for prospective nurses to train. There are no disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The Board of Nursing (board) proposes to no longer require that informal conference (IFC) decisions involving nurse aide education programs or medication aide training programs go before the board for review and action, which would conform these regulations to the large majority of board regulations.

Background. If a nurse aide education program (i) is denied approval, (ii) has its program approval withdrawn by the board, or (iii) is placed on conditional approval with terms and conditions to be met within a timeframe specified by the board, it may request an IFC pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia. Similarly, if a medication aide training program has its program approval withdrawn by the board or is placed on conditional approval, it may request an IFC. Under the current regulations, the IFC committee recommendation must then be presented to the board or a panel thereof for review and action. If the recommendation of the IFC committee is accepted by the board or a panel thereof, the decision is reflected in a board order. The program may request a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia. However, most of other board regulations do not require that IFC decisions go before the board for review and action. For those regulations, the IFC decision (if it affirms the initial decision) is reflected in a board order without requiring board review and action. Programs do have the right to request a formal hearing as they do in Regulations for Nurse Aide Education Programs (18VAC90-26) and Regulations Governing the Registration of Medication Aides (18VAC90-60). The board proposes to eliminate the requirements in 18VAC90-26 and 18AC 90-60 that IFC decisions go before the board for review and action, which would conform this regulation to the large majority of other board regulations.

Estimated Benefits and Costs. According to the Department of Health Professions (DHP), there is at least a month wait between when IFC recommendations for nurse aide and medication aide education programs are made and the next board meeting and then additional processing time. Therefore, it is often close to two months before board orders become final after an IFC recommendation. In contrast, DHP indicates that if the proposed amendments go into effect it is expected to take only about two weeks between an IFC decision and a board order. This is beneficial for the nurse aide and medication aide education programs, whether or not the IFC decision is to affirm the initial decision or reverse the denial or withdrawal. If the IFC affirms the initial decision, the program can request a formal hearing sooner. If IFC decision is to reverse the denial or withdrawal, the program can start or resume its activities sooner. The proposal also benefits the board by requiring less of its time.

Businesses and Other Entities Affected. The proposed amendments would potentially affect the 237 current nurse aide education programs, 220 current medication aide educations programs, future nurse aide and medication aide education programs applying for approval, and the Board.[2] The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] As the proposal neither increases net costs nor reduces net revenue for any entity, no adverse impact is indicated.

Small Businesses[5] Affected.[6] The proposal does not appear to adversely affect small businesses.

Localities[7] Affected.[8] The proposal does not disproportionally affect any particular localities, nor introduce costs for local governments.

Projected Impact on Employment. The proposal does not substantively affect employment.

Effects on the Use and Value of Private Property. The proposal does not substantively affect the use and value of private property or costs related to the development of real estate.

---

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

[2] Data source: DHP.

[3] 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.

[4] 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.

[5] 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."

[6] 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.

[7] "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.

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

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

Summary:

The amendments adjust procedures for informal conference orders to make the processes consistent with Board of Nursing policies and the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC90-26-20. Establishing and maintaining a nurse aide education program.

A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit a complete application to the board at least 90 days in advance of the expected opening date.

2. The application shall provide evidence of the ability of the institution to comply with subsection B of this section.

3. Approval may be granted when all documentation of the program's compliance with requirements as set forth in subsection B of this section has been submitted and deemed satisfactory to the board and a site visit has been conducted. Advertisement of the program is authorized only after board approval has been granted.

4. If approval is denied, the program may request, within 30 days of the mailing of the decision, an informal conference to be convened in accordance with § 2.2-4019 of the Code of Virginia.

5. If denial is recommended following an informal conference, ~~which is accepted by the board or a panel thereof,~~ no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia.

6. If the decision of the board or a panel thereof following a formal hearing is to deny initial approval, the program shall be advised of the right to appeal the decision to the

appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

B. Maintaining an approved nurse aide education program. To maintain approval, the nurse aide education program shall:

1. Demonstrate evidence of compliance with the following essential elements:

a. Implementation of the board approved curriculum as set forth in subsection A of 18VAC90-26-40 and subsection C of 18VAC90-26-50.

b. Maintenance of qualified instructional personnel as set forth in 18VAC90-26-30.

c. Classroom facilities that meet requirements set forth in subsection D of 18VAC90-26-50.

d. Maintenance of records as set forth in subsection A of 18VAC90-26-50.

e. Skills training experience in a clinical setting that has not been subject to penalty as provided in 42 CFR 483.151(b)(2) (Medicare and Medicaid Programs: Nurse Aide Training and Competency Evaluation and Paid Feeding Assistants, October 1, 2013 edition) in the past two years. The foregoing shall not apply to a nursing facility that has received a waiver from the state survey agency in accordance with federal law.

f. The use of a clinical setting in Virginia located 50 miles or more from the school shall require board approval.

g. Agreement that board representatives may make unannounced site visits to the program.

h. Financial support and resources sufficient to meet requirements of this chapter as evidenced by a copy of the current annual budget or a signed statement from the administration specifically detailing its financial support and resources.

i. Completion and submission of biennial survey visit review reports and program evaluation reports as requested by the board within a timeframe specified by the board.

2. Impose no fee for any portion of the program, including any fees for textbooks or other required course materials, on any nurse aide student who, on the date on which the student begins the program, is either employed or has an offer of employment from a facility.

3. Provide documentation that each student applying to or enrolled in such program has been given a copy of applicable Virginia law regarding criminal history records checks for employment in certain health care facilities and a list of crimes that pose a barrier to such employment.

4. Report all substantive changes in subdivision 1 of this subsection within 10 days of the change to the board to include a change in the program coordinator, primary instructor, program ownership, physical location of the program, or licensure status of the clinical facility.

5. Provide each student with a copy of the student's certificate of completion as specified in 18VAC90-26-50.

18VAC90-26-60. Requirements for continued approval.

A. Program review.

1. Each nurse aide education program shall be reviewed annually either by a survey visit by an agent of the board or by a written program evaluation. Each program shall be reviewed by a survey visit at least every two years following initial review or by a site visit whenever deemed necessary by the board to ensure continued compliance.

2. The program coordinator shall prepare and submit a program evaluation report on a form provided by the board in the intervening year that a survey visit is not conducted.

3. Any additional information needed to evaluate a program's compliance with regulations of the board must be submitted within a timeframe specified by the board.

B. Continued, conditional, or withdrawal of approval.

1. The board shall receive and review the report of the survey visit or program evaluation report and may grant continued approval, place a program on conditional approval, or withdraw approval.

a. Granting continued approval. A nurse aide education program shall continue to be approved provided the requirements set forth in subsection B of 18VAC90-26-20 are maintained.

b. Placing a program on conditional approval. If the board determines that a nurse aide education program (i) has not filed its biennial survey visit or program evaluation report; (ii) is unresponsive or uncooperative in the scheduling of the survey or site visit; or (iii) is not maintaining the requirements of subsection B of 18VAC90-26-20, as evidenced by the survey visit or program evaluation report, the board may place the program on conditional approval and the program provider shall be given a reasonable period of time to correct the identified deficiencies. Within 30 days of the mailing of a decision on conditional approval, the program may request an informal conference to be convened in accordance with § 2.2-4019 of the Code of Virginia.

(1) The board shall receive and review reports of progress toward correcting identified deficiencies. When a final report is received at the end of the specified time showing corrections of deficiencies, the board may grant continued approval.

(2) If the program provider fails to correct the identified deficiencies within the time specified by the board, the board may withdraw approval.

c. Withdrawing approval.

(1) If the board determines that a nurse aide education program is not maintaining the requirements of subsection B of 18VAC90-26-20, an informal conference will be convened in accordance with § 2.2-4019 of the Code of Virginia. If the ~~recommendation to withdraw approval following an~~ informal conference ~~is accepted by the board or a panel thereof~~ withdraws approval, no further action will be required unless the program requests a formal hearing.

(2) The program provider may request a formal hearing before the board or a panel thereof pursuant to § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia if it objects to any action of the board relating to withdrawal of approval.

2. If the decision of the board or a panel thereof following a formal hearing is to withdraw approval or continue on conditional approval with terms or conditions, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

18VAC90-60-75. Conditional or withdrawal of approval of a medication aide training program.

A. If the board determines that a medication aide training program is not maintaining the requirements of Part II (18VAC90-60-40 et seq.) of this chapter, the board may:

1. Place the program on conditional approval with terms and conditions to be met within the timeframe specified by the board; or

2. Withdraw program approval.

B. If the board either places a program on conditional approval with terms and conditions to be met within a timeframe specified by the board or withdraws approval, the following shall apply:

1. No further action will be required of the board unless the program requests an informal conference pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia.

~~2. If withdrawal or continued program approval with terms and conditions is recommended following the informal conference, the recommendation shall be presented to the board or a panel of the board for review and action.~~

~~3.~~ 2. If the ~~recommendation of the~~ informal conference ~~committee is accepted by the board or a panel of the board~~ withdraws or continues approval with terms, the decision shall be reflected in a board order, and no further action by the board is required unless the program requests a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia.

~~4.~~ 3. If the decision of the board or a panel of the board following a formal hearing is to withdraw approval or continue on conditional approval with terms or conditions, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

VA.R. Doc. No. R27-8469; Filed September 1, 2026, 10:14 a.m.

Fast-Track Regulation

Title of Regulation: **18VAC90-27. Regulations for Nursing Education Programs (amending 18VAC90-27-130, 18VAC90-27-160, 18VAC90-27-230).**

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

Agency Contact: Claire Morris, RN, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4665, or email claire.morris@dhp.virginia.gov.

Basis: Regulations of the Board of Nursing are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which states that the general powers and duties of health regulatory boards is to promulgate regulations that are reasonable and necessary to administer effectively the regulatory system.

Purpose: This regulatory change is essential to protect the health, safety, and welfare of citizens because shorter review times help approve educational programs faster, which helps address the nursing workforce shortage in the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: This regulatory change is expected to be noncontroversial and is appropriate for the fast-track rulemaking process because the proposed amendments reduce barriers to informal conference approvals and streamline review in the Board of Nursing.

Substance: The amendments remove requirements that the recommendation of the informal fact-finding conference go before the Board of Nursing for review and action.

Issues: The primary advantages to the public are reducing the lengthy review time for nursing education programs, thereby increasing the availability of programs for prospective nurses to train. There are no disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The Board of Nursing (board) proposes to no longer require that informal conference (IFC) decisions involving nursing education programs go before the board for review and action, which would conform these regulations to the large majority of board regulations.

Background. If a nursing education program (i) is denied initial approval, (ii) has its initial program approval withdrawn by the board, (iii) is denied full program approval, (iv) is placed on conditional approval with terms and conditions to be met within a timeframe specified by the board, or (v) has its full program approval withdrawn, it may request an IFC pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia. Similarly, if a medication aide training program has its program approval withdrawn by the board or is placed on conditional approval, it may request an IFC. Under the current regulation, the IFC committee recommendation must then be presented to the board or a panel thereof for review and action. If the recommendation of the IFC committee is accepted by the board or a panel thereof, the decision is reflected in a board order. The program may request a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia. However, most of other board regulations do not require that IFC decisions go before the board for review and action. For those regulations, the IFC decision (if it affirms the initial decision) is reflected in a board order without requiring board review and action. Programs do have the right to request a formal hearing as they do in Regulations Governing Nursing Education Programs (18VAC90-27). The board proposes to eliminate the requirements in 18VAC90-27 that IFC decisions go before the board for review and action, which would conform this regulation to the large majority of other board regulations.

Estimated Benefits and Costs. According to the Department of Health Professions (DHP), there is at least a month wait between when IFC recommendations for nurse aide and medication aide education programs are made and the next board meeting and then additional processing time. Therefore, it is often close to two months before board orders become final after an IFC recommendation. In contrast, DHP indicates that if the proposed amendments go into effect it is expected to take only about two weeks between an IFC decision and a board order. This is beneficial for the nurse aide and medication aide education programs, whether or not the IFC decision is to affirm the initial decision or reverse the denial or withdrawal. If the IFC affirms the initial decision, the program can request a formal hearing sooner. If IFC decision is to reverse the denial or withdrawal, the program can start or resume its activities sooner. The proposal also benefits the board by requiring less of its time.

Businesses and Other Entities Affected. The proposed amendments would potentially affect the 58 current practical schools of nursing, 80 current professional schools of nursing, future schools of nursing applying for approval, and the Board.[2] According to DHP, the Board hears about 15 cases concerning a year concerning denial or withdrawal of program approval. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] As the proposal neither increases net costs nor reduces net revenue for any entity, no adverse impact is indicated.

Small Businesses[5] Affected.[6] The proposal does not appear to adversely affect small businesses.

Localities[7] Affected.[8] The proposal does not disproportionally affect any particular localities, nor introduce costs for local governments.

Projected Impact on Employment. The proposal does not substantively affect employment.

Effects on the Use and Value of Private Property. The proposal does not substantively affect the use and value of private property or costs related to the development of real estate.

---

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

[2] Data source: DHP.

[3] 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.

[4] 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.

[5] 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."

[6] 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.

[7] "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.

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

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

Summary:

The amendments standardize informal conferences across the Board of Nursing regulations and streamline reviews of nursing education programs.

18VAC90-27-130. Denying or withdrawing initial program approval.

A. Denial of initial program approval.

1. Initial approval may be denied for causes enumerated in 18VAC90-27-140.

2. If initial approval is denied:

a. The program shall be given an option of correcting the deficiencies cited by the board during the time remaining in its initial 12-month period following receipt of the application.

b. No further action regarding the application shall be required of the board unless the program requests, within 30 days of the mailing of the decision, an informal conference pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia.

~~3. If denial is recommended following the informal conference, the recommendation shall be presented to the board or a panel thereof for review and action.~~

~~4.~~ 3. If the ~~recommendation of the~~ informal conference ~~committee to deny initial~~ denies approval ~~is accepted by the board or a panel thereof~~, the decision shall be reflected in a board order, and no further action by the board is required. The program may request a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia.

~~5.~~ 4. If the decision of the board or a panel thereof following a formal hearing is to deny initial approval, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

B. Withdrawal of initial program approval.

1. Initial approval shall be withdrawn and the program closed if:

a. The program has not admitted students within six months of approval of its application;

b. The program fails to submit evidence of progression toward full program approval; or

c. For any of the causes enumerated in 18VAC90-27-140.

2. If a decision is made to withdraw initial approval, no further action shall be required by the board unless the program within 30 days of the mailing of the decision requests an informal conference pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia.

~~3. If withdrawal of initial approval is recommended following the informal conference, the recommendation shall be presented to the board or a panel thereof for review and action.~~

~~4.~~ 3. If the ~~recommendation of the~~ informal conference ~~committee to withdraw initial~~ denies approval ~~is accepted by the board or a panel thereof~~, the decision shall be reflected in a board order, and no further action by the board is required unless the program requests a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia.

~~5.~~ 4. If the decision of the board or a panel thereof following a formal hearing is to withdraw initial approval, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

18VAC90-27-160. Denying full program approval.

A. Denial of full program approval may occur for causes enumerated in 18VAC90-27-140.

B. If full program approval is denied, the board shall also be authorized to do one of the following:

1. The board may continue the program on initial program approval with terms and conditions to be met within the timeframe specified by the board; or

2. The board may withdraw initial program approval.

C. If the board takes one of the actions specified in subsection B of this section, the following shall apply:

1. No further action will be required of the board unless the program within 30 days of the mailing of the decision requests an informal conference pursuant to §§ 2.2-4019 and 54.1-109 the Code of Virginia.

2. If continued initial program approval with terms and conditions or withdrawal of initial approval is ~~recommended following~~ decided by the informal conference, ~~the recommendation shall be presented to the board or a panel thereof for review and action. 3. If the recommendation of the informal conference committee is accepted by the board or a panel thereof,~~ the decision shall be reflected in a board order, and no further action by the board regarding the application is required. The program may request a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia.

~~4.~~ 3. If the decision of the board or a panel thereof following a formal hearing is to deny full approval or withdraw or continue on initial approval with terms or conditions, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

D. If a program is denied full approval and initial approval withdrawn, no additional students may be accepted into the program, effective upon the date of entry of the board's final order to deny or withdraw approval. Further, the program shall submit quarterly reports until the program is closed, and the program shall comply with board requirements regarding closure of a program as stated in 18VAC90-27-240.

18VAC90-27-230. Continuing and withdrawal of full approval.

A. The board shall receive and review the self-evaluation and survey reports required in 18VAC90-27-220 B or C or complaints relating to program compliance. Following review, the board may continue the program on full approval so long as it remains in compliance with all requirements in Parts II (18VAC90-27-30 et seq.), III (18VAC90-27-150 et seq.), and IV (18VAC90-27-210 et seq.) of this chapter.

B. If the board determines that a program is not maintaining the requirements of Parts II, III, and IV of this chapter or for causes enumerated in 18VAC90-27-140, the board may:

1. Place the program on conditional approval with terms and conditions to be met within the timeframe specified by the board; or

2. Withdraw program approval.

C. If the board either places a program on conditional approval with terms and conditions to be met within a timeframe specified by the board or withdraws approval, the following shall apply:

1. No further action will be required of the board unless the program requests an informal conference pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia.

2. If withdrawal or continued program approval with terms and conditions is ~~recommended following~~ decided by the informal conference, ~~the recommendation shall be presented to the board or a panel thereof for review and action. 3. If the recommendation of the informal conference committee is accepted by the board or a panel thereof,~~ the decision shall be reflected in a board order and no further action by the board is required unless the program requests a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia.

~~4.~~ 3. If the decision of the board or a panel thereof following a formal hearing is to withdraw approval or continue on conditional approval with terms or conditions, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

D. If a program approval is withdrawn, no additional students may be admitted into the program effective upon the date of entry of the board's final order to withdraw approval. Further, the program shall submit quarterly reports until the program is closed, and the program must comply with board requirements regarding closure of a program as stated in 18VAC90-27-240.

VA.R. Doc. No. R27-8320; Filed September 1, 2026, 10:11 a.m.

BOARD OF PHARMACY

Fast-Track Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-540, 18VAC110-20-690, 18VAC110-20-700, 18VAC110-20-710, 18VAC110-20-735).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

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

Basis: Regulations of the Board of Pharmacy are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which states that the general powers and duties of health regulatory boards is to promulgate regulations that are reasonable and necessary to administer effectively the regulatory system.

Purpose: This regulatory change is essential to protect the health, safety, and welfare of citizens because it will increase available substances used to combat opioid overdoses.

Rationale for Using the Fast-Track Rulemaking Process: This regulatory change is expected to be noncontroversial and appropriate for the fast-track rulemaking process because it will increase use of opioid antagonists in health emergencies.

Substance: The amendments add the phrase "or other opioid antagonists" where the drug naloxone is listed.

Issues: The primary advantages to the public are an increase in options to combat opioid overdoses. There are no disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The Board of Pharmacy (board) proposes to amend Regulations Governing the Practice of Pharmacy (18VAC110-20) to add or other opioid antagonists following every occurrence of naloxone. This change would conform the regulation to statute.

Background. In recent years, federal and state legislation and regulation have recognized other opioid antagonists besides naloxone for use in reversing opioid overdoses. For example, Chapters 370 and 386 of the 2025 Acts of Assembly amended § 54.1-3408 Y of the Code of Virginia to allow individuals currently authorized or required to dispense naloxone to also dispense other opioid antagonists. Thus, the board proposes to insert or other opioid antagonists following naloxone in every instance where it appears in 18VAC110-20-540, 18VAC110-20-690, 18VAC110-20-700, 18VAC110-20-710, and 18VAC110-20-735. As a result, the phrase naloxone or other opioid antagonists would appear in 19 locations in the text.

Estimated Benefits and Costs. The proposed amendments would broadly benefit the public by aligning the regulation with statute and thereby clarifying that regulants who are authorized to store, dispense, or administer naloxone can do the same with other opioid inhibitors. The proposed amendments would not introduce any new costs.

Businesses and Other Entities Affected. The proposed amendments could benefit long-term care facilities that maintain an emergency kit containing naloxone, individuals who are trained and certified to administer naloxone, individuals who are authorized by the Department of Behavioral Health and Developmental Services to provide training on the administration of naloxone, and all persons or entities with a controlled substances registration who store or dispense naloxone. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[2] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[3] The proposed changes would not increase costs for any entity, nor reduce net benefits. Thus, an adverse impact is not indicated.

Small Businesses[4] Affected.[5] The proposed changes would not create new costs for small businesses. Some small businesses (long-term care facilities or independent pharmacies) would benefit from the regulatory flexibility to stock opioid antagonists besides naloxone if they are not already doing so as a result of statutory changes.

Localities[6] Affected.[7] No locality would be disproportionately affected. Local governments would not be affected.

Projected Impact on Employment. The proposed amendments are not expected to affect employment.

Effects on the Use and Value of Private Property. The proposed amendments are not expected to affect the use or value of private property. Real estate development costs would not be affected.

---

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

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

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

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

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

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

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

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

Summary:

Pursuant to Chapters 370 and 386 of the 2025 Acts of Assembly, the amendments add the phrase "or other opioid antagonists" in regulatory text that references naloxone.

18VAC110-20-540. Emergency drug kit.

A. The pharmacist providing services may prepare an emergency kit for a long-term care facility in which access to the kit is restricted to a licensed nurse, pharmacist, or prescriber and only these licensed individuals may administer a drug taken from the kit and only under the following conditions:

1. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

2. The contents of the kit or an automated drug dispensing system, as provided in subsection B of this section, shall be

determined by the provider pharmacist in consultation with the medical and nursing staff of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL, diazepam rectal gel, and the intranasal spray formulation of naloxone or other opioid antagonists may be included.

3. The kit is sealed in such a manner that it will preclude any possible loss of the drug.

a. The dispensing pharmacy must have a method of sealing such kits so that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication, resealing, or both. The pharmacy shall maintain a record of the seal identifiers when placed on a box or kit and maintain the record until such time as the seal is replaced.

c. In lieu of seals, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy is also acceptable.

4. The kit shall have a form to be filled out upon opening the kit and removing contents to write the name of the person opening the kit, the date, time, and name and quantity of items removed. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.

5. Any drug used from the kit shall be covered by a prescription, signed by the prescriber, when legally required, within 72 hours.

B. Drugs that would be stocked in an emergency kit, pursuant to this section, may be stocked in an automated drug dispensing system in a nursing home in accordance with 18VAC110-20-555.

18VAC110-20-690. Persons or entities authorized or required to obtain a controlled substances registration.

A. A person or entity that maintains or intends to maintain a supply of Schedules II through VI controlled substances, other than ~~manufacturer~~ a manufacturer's samples, in accordance with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) may apply for a controlled substances registration on forms approved by the board.

B. Persons or entities that may be registered by the board shall include hospitals without in-house pharmacies, nursing homes without in-house pharmacies that use automated drug dispensing systems, ambulatory surgery centers, outpatient clinics, alternate delivery sites, crisis stabilization units, persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone or other opioid antagonists and to dispense naloxone or other opioid antagonists for opioid overdose reversal, emergency medical services agencies, and regional EMS councils, provided such persons or entities are otherwise authorized by law and hold required licenses or appropriate credentials to administer the drugs for which the registration is being sought.

C. In determining whether to register an applicant, the board shall consider factors listed in subsections A and D of § 54.1-3423 of the Code of Virginia and compliance with applicable requirements of this chapter.

1. The proposed location shall be inspected by an authorized agent of the board prior to issuance of a controlled substances registration.

2. Controlled substances registration applications that indicate a requested inspection date or requests that are received after the application is filed shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

3. Requested inspection dates that do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

4. Any person wishing to change an approved location of the drug stock, make structural changes to an existing approved drug storage location, or make changes to a previously approved security system shall file an application with the board and be inspected.

5. Drugs shall not be stocked within the proposed drug storage location or moved to a new location until approval is granted by the board.

D. The application shall be signed by a person who will act as a responsible party for the controlled substances. The responsible party may be a prescriber, nurse, pharmacist, pharmacy technician for alternate delivery sites, a person authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone or other opioid antagonists and to dispense naloxone or other opioid antagonists for opioid overdose reversal, or other person approved by the board who is authorized to administer the controlled substances.

E. The board may require a person or entity to obtain a controlled substances registration upon a determination that Schedules II through VI controlled substances have been obtained and are being used as common stock by multiple practitioners and that one or more of the following factors exist:

1. A federal, state, or local government agency has reported that the person or entity has made large purchases of controlled substances in comparison with other persons or entities in the same classification or category.

2. The person or entity has experienced a diversion, theft, or other unusual loss of controlled substances which requires reporting pursuant to § 54.1-3404 of the Drug Control Act.

3. The person or entity has failed to comply with recordkeeping requirements for controlled substances.

4. The person or entity or any other person with access to the common stock has violated any provision of federal, state, or local law or regulation relating to controlled substances.

F. The board may issue a controlled substance registration to an entity at which a patient is being treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is being prescribed Schedules II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration provided:

1. There is a documented need for such registration, and issuance of the registration of the entity is consistent with the public interest;

2. The entity is under the general supervision of a licensed pharmacist or a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine; and

3. The application is signed by a person who will act as the responsible party for the entity for the purpose of compliance with provisions of this subsection. The responsible party shall be a prescriber, nurse, pharmacist, or other person who is authorized by provisions of § 54.1-3408 of the Code of Virginia to administer controlled substances.

G. The board may issue a controlled substances registration to an EMS agency or regional EMS council to receive controlled substances in Schedules II through VI from a wholesale distributor, manufacturer, third-party logistics provider, warehouser, or pharmacy. The EMS agency or regional EMS council shall identify to the board any designated location to which the EMS agency or regional EMS council may deliver controlled substances. The EMS agency or regional EMS council shall also obtain a registration from DEA in accordance with federal law prior to delivery of Schedules II through V drugs. The EMS agency or regional EMS council shall identify on the controlled substances registration application the name and physical address of the designated locations and attest that each designated location of the EMS agency or regional EMS council complies with the storage and security requirements of 18VAC110-20-710. Any changes to the designated locations shall be submitted to the board in advance of delivering or ceasing to deliver controlled substances to that location and the designated locations must be approved sites under federal law.

H. An EMS agency receiving only Schedule VI drugs from a wholesale distributor, manufacturer, third-party logistics provider, warehouser, or pharmacy or temporarily storing a secured drug kit within the EMS building when the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service shall obtain a controlled substance registration or operate as a designated location of a registered EMS agency headquarters.

18VAC110-20-700. Requirements for supervision for controlled substances registrants.

A. A practitioner licensed in Virginia shall provide supervision for all aspects of practice related to the maintenance and use of controlled substances as follows:

1. In a hospital or nursing home without an in-house pharmacy, a pharmacist shall supervise.

2. In an emergency medical services agency, the operational medical director shall supervise.

3. For any other type of applicant or registrant, a pharmacist or a prescriber whose scope of practice is consistent with the practice of the applicant or registrant and who is approved by the board may provide the required supervision.

B. The supervising practitioner shall approve the list of drugs that may be ordered by the holder of the controlled substances registration; possession of controlled substances by the entity shall be limited to such approved drugs. The list of drugs approved by the supervising practitioner shall be maintained at the address listed on the controlled substances registration.

C. Access to the controlled substances shall be limited to (i) the supervising practitioner or to those persons who are authorized by the supervising practitioner and who are authorized by law to administer drugs in Virginia; (ii) such other persons who have successfully completed a training program for repackaging of prescription drug orders in a CSB, BHA, or PACE site as authorized in § 54.1-3420.2 of the Code of Virginia; (iii) other such persons as designated by the supervising practitioner or the responsible party to have access in an emergency situation; or (iv) persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone <u>or other opioid antagonists</u> and to dispense naloxone <u>or other opioid antagonists</u> for opioid overdose reversal. If approved by the supervising practitioner, pharmacy technicians may have access for the purpose of delivering controlled substances to the registrant, stocking controlled substances in automated drug dispensing systems or remote dispensing systems, conducting inventories, audits and other recordkeeping requirements, overseeing delivery of dispensed prescriptions at an alternate delivery site, and repackaging of prescription drug orders retained by a CSB, BHA, or PACE site as authorized in § 54.1-3420.2 of the Code of Virginia.

D. The supervising practitioner shall establish procedures for and provide training as necessary to ensure compliance with all requirements of law and regulation, including storage, security, and recordkeeping.

E. Within 14 days of a change in the responsible party or supervising practitioner assigned to the registration, either the responsible party or outgoing responsible party shall inform the board, and a new application shall be submitted indicating the name and license number, if applicable, of the new responsible party or supervising practitioner.

18VAC110-20-710. Requirements for storage and security for controlled substances registrants.

A. Drugs shall be stored under conditions that meet USP-NF specifications or manufacturer's suggested storage for each drug.

B. Any drug that has exceeded the expiration date shall not be administered; it shall be separated from the stock used for administration and maintained in a separate, locked area until properly disposed.

C. If a controlled substances registrant wishes to dispose of unwanted or expired Schedules II through VI drugs, the controlled substances registrant shall transfer the drugs to another person or entity authorized to possess and to provide for proper disposal of such drugs.

D. Drugs shall be maintained in a lockable cabinet, cart, device, or other area that shall be locked at all times when not in use. The keys or access code shall be restricted to the supervising practitioner and persons designated access in accordance with 18VAC110-20-700 C.

E. A registered EMS agency headquarters or regional EMS council may store controlled substances in an automated dispensing device that is located at a secured site at the registered location or designated location of the EMS agency or regional EMS council that is (i) installed and operated by the EMS agency or regional EMS council, (ii) not used to directly dispense controlled substances to an ultimate user, and (iii) is in compliance with the requirements of state law.

F. In a facility not staffed 24 hours a day, the drugs shall be stored in a fixed and secured room, cabinet, or area that has a security device for the detection of breaking that meets the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

2. The installation and device shall be based on accepted alarm industry standards.

3. The device shall be maintained in operating order, have an auxiliary source of power, be monitored in accordance with accepted industry standards, be maintained in operating order; and shall be capable of sending an alarm signal to the monitoring entity if breached and the communication line is not operational.

4. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.

5. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.

6. An alarm system is not required for researchers; animal control officers; humane societies; alternate delivery sites as provided in 18VAC110-20-275; registered EMS agencies or regional EMS councils, or designated locations of registered EMS agency headquarters or regional EMS councils stocking only Schedule VI drugs or temporarily securing a secured drug kit that may contain Schedules II through VI drugs when the EMS vehicle or other EMS vehicle cannot maintain appropriate drug storage temperature or is out of service; persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone <u>or other opioid antagonists</u> and to dispense naloxone <u>or other opioid antagonists</u> for opioid overdose reversal; and teaching institutions possessing only Schedule VI drugs.

G. A registered EMS agency headquarters or regional EMS council may store controlled substances at any of the following secured locations:

1. A registered location of the EMS agency or regional EMS council;

2. A designated location of the EMS agency or regional EMS council of which the board has been notified and DEA has granted approval if stocking drugs in Schedules II through V;

3. In an EMS vehicle or other EMS vehicle situated at a registered location or designated location of the EMS agency or regional EMS council or other location where an EMS agency approves an EMS vehicle to be stored; or

4. In an EMS vehicle or other EMS vehicle used by the EMS agency that is traveling from or returning to a registered location or designated location of the EMS agency or EMS council or other location where an EMS agency approves an EMS vehicle to be stored in the course of responding to an emergency or otherwise actively in use by the EMS agency.

H. Drugs secured in an EMS agency, regional EMS council, EMS vehicle, or other EMS vehicle shall be stored at an appropriate temperature pursuant to manufacturer's directions at all times. If the EMS vehicle or other EMS vehicle cannot maintain appropriate temperature or is out of service, the drug kit may be temporarily maintained within the building of the EMS agency. The drug kit shall be stored in compliance with this section.

18VAC110-20-735. Requirements for dispensing of naloxone <u>or other opioid antagonists</u> by trained individuals.

A. Persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone or other opioid antagonists in an injectable formulation with a hypodermic needle or syringe and dispense the naloxone or other opioid antagonists for opioid overdose reversal pursuant to subsection Y of § 54.1-3408 of the Code of Virginia shall maintain the following records:

1. The prescriber's standing order issued in accordance with subsection Y of § 54.1-3408 of the Code of Virginia authorizing the trained individual to dispense naloxone or other opioid antagonists.

2. Invoices or other records showing receipts of naloxone or other opioid antagonists shall be maintained but may be stored in an electronic database or record as an electronic image that provides an exact, clearly legible image of the document or in secured storage either on site or off site. All records in off-site storage or database shall be retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

3. A manual or electronic log indicating the name, strength, lot, expiration date, and quantity of naloxone or other opioid antagonists transferred to and from the controlled substances registration location to the off-site training location, along with date of transfer and the name of the trained individual approved by the Department of Behavioral Health and Developmental Services.

4. Record of dispensing indicating the name of the person receiving naloxone or other opioid antagonists, address or contact information if available, date of dispensing, drug name, strength, quantity, lot number, expiration date, and the name of the trained individual approved by the Department of Behavioral Health and Developmental Services to dispense naloxone or other opioid antagonists.

B. The naloxone or other opioid antagonists shall be labeled with directions for use in accordance with the prescriber's standing order, date of dispensing, name of person receiving the drug, drug name and strength, and the name and telephone number for the entity associated with the controlled substances registration.

C. The naloxone or other opioid antagonists shall be stored and transported under appropriate storage conditions in accordance with the manufacturer's directions to protect it from adulteration.

D. In the event of a manufacturer recall, the supervising practitioner or responsible party associated with the controlled substances registration certificate shall ensure compliance with recall procedures as issued by the manufacturer, the U.S. Food and Drug Administration, or the board to ensure an affected drug is transferred to a person or entity authorized to possess the drug for return or destruction.

E. Except for a prescriber's standing order, which shall be maintained on site for a period of not less than two years from the date of the last dispensing, records shall be filed chronologically and maintained for a period of not less than two years from the date of transaction.

VA.R. Doc. No. R27-8324; Filed September 1, 2026, 11:21 a.m.

REAL ESTATE BOARD

Final Regulation

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

Title of Regulation: **18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-65).**

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 1, 2026.

Agency Contact: Anika Coleman, Executive Director, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, fax (866) 826-8863, or email reboard@dpor.virginia.gov.

Summary:

Pursuant to Chapter 448 of the 2026 Acts of Assembly, the amendment reduces the period an applicant must have held a current and valid professional or occupational license or government certification in another state to one year in order to qualify for licensure or certification through Virginia's universal license recognition process.

18VAC135-20-65. Universal license recognition.

A. Licensed in a neighboring state. The board will issue a salesperson or broker license under universal license recognition to an individual who meets the following qualifications:

1. The individual holds a current and valid license with a similar scope of practice in a neighboring state;

2. The individual's other license is in good standing with no reported pending complaints;

3. The individual has met the requirements set in subdivision 4 of 18VAC135-20-30;

4. The individual has not been subject to professional discipline involving harm to the public or license probation, suspension, or revocation;

5. The individual pays the reciprocity application fee as listed in 18VAC135-20-15; and

6. The individual successfully passes the Virginia Real Estate Exam.

B. Licensed in another state. The board will issue a salesperson or broker license under universal license recognition to an individual who meets the following qualifications:

1. The individual holds a current and valid license with a similar scope of practice in another state, territory, possession, or jurisdiction of the United States for at least ~~three years~~ one year;

2. The individual was licensed in the other state after having passed a state required exam and met education, training, or experience requirements to obtain the license;

3. The individual's other license is in good standing with no reported pending complaints;

4. The individual has met the requirements set in subdivision 4 of 18VAC135-20-30;

5. The individual has not been subject to professional discipline involving harm to the public or license probation, suspension, or revocation;

6. The individual pays the reciprocity application fee as listed in 18VAC135-20-15; and

7. The individual successfully passes the Virginia Real Estate Exam.

C. Experience in a state that does not require licensure. The board will hold an individual to have met all experience, training, and education requirements if the applicant has three years of experience in a state that does not require licensure.

1. To be exam eligible under universal license recognition, an individual must have:

a. Demonstrated at least three years of experience as a salesperson or broker in another state that does not issue an occupational or professional license for that respective profession;

b. Met the requirements set in subdivision 4 of 18VAC135-20-30;

c. Not been subject to professional discipline involving harm to the public or license probation, suspension, or revocation; and

d. Paid the applicable application fee as listed in 18VAC135-20-15.

2. Under this subsection, individuals are required to pass all exams required of initial applicants for the license under 18VAC135-20-35.

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

FORMS (18VAC135-20)

License Exchange to Salesperson License Application, A490-0225EXCHG-v6 (rev. 4/2026)

Pre-License Education Instructor Certification Application, A490-0230INSTR-v10 (rev. 4/2026)

Proprietary School Certification Application, A490-0211SCHL-v5 (rev. 4/2026)

Real Estate Firm/Sole Proprietorship Audit, F490-02AUD-v4 (rev. 7/2014)

Individual - Name/Address Change Form, A954640-02NACHG-v5 (rev. 4/2026)

Firm License Application, A490-0226FLIC-v7 (rev. 4/2026)

Branch Office License Application, A490-0226BRLIC-v7 (rev. 4/2026)

Business Entity License Transfer Application, A490-0226BETR-v7 (rev. 4/2026)

Business Entity License/Reinstatement Application, A490-0226BELIC-v10 (rev. 4/2026)

Business Entity Change Application, A490-0226ARBEM-vs8 (rev. 4/2026)

Salesperson License Application, A490-0225SLIC-v13 (rev. 4/2026)

~~Salesperson - Universal License Recognition (ULR) Application - A490-0225S-ULR-v5 (rev. 4/2026)~~

Salesperson - Universal License Recognition (ULR) Application - A490-0225S-ULR-v7 (rev. 7/2026)

Salesperson Activate/Transfer Application, A490-0225SAT-v10 (rev. 4/2026)

Place License Inactive Application, A490-0225INACT-v1 (rev. 1/2013)

Concurrent Broker License Application, A490-0225CONCUR-v9 (rev. 4/2026)

Broker License Application, A490-0225BLIC-v14 (rev. 4/2026)

~~Broker - Universal License Recognition (ULR) Application - A490-0225B-UNIV-v6 (rev. 4/2026)~~

Broker - Universal License Recognition (ULR) Application - A490-0225B-ULR-v8 (rev. 7/2026)

Broker - Activate/Transfer Application, A490-0225BAT-v11 (rev. 4/2026)

Online Approval - Broker Acknowledgment Form, A490-0225BACK-v1 (rev. 12/2014)

In-State Experience Verification Form, A490-02VAEXP-v4 (rev. 11/2015)

Signature Authority Form, A460-02SIG_AUT-v3 (rev. 11/2015)

Branch Office - Supervising Broker Change Form, A490-02SBCHG-v8 (rev. 4/2026)

Firm Principal Broker/Officer Change Form, A490-02PBOCHG-v5 (rev. 4/2026)

Out-of-State Experience Verification Form, A490-02OSEXP-v3 (rev. 11/2015)

Firm Name or Address Change Form, A490-02FNACHG-v5 (rev. 4/2026)

Prelicense Education Course Approval Application, A490-0214PRE-v9 (rev. 4/2026)

Additional Instructor Approval Application, A490-0214ADD-v3 (rev. 5/2013)

Continuing Education/Post License Course Approval Application, A490-214CE_PLE-vs11 (rev. 4/2026)

Branch Affiliation Application, A490-0225BRAFF-v5 (rev. 4/2026)

Branch Office - Address Change Form, A490-0226BOA_CHGv-2 (rev. 4/2026)

Settlement Agent Registration Application, A490-0227SAR-v3 (rev. 4/2026)

Termination of Branch Office Affiliation Application, A490-0225TERM-v1 (rev. 11/2016)

Post License Education (PLE)/Continuing Education (CE) Instructor Approval Application, A490-0230APPR-v6 (rev. 4/2026)

VA.R. Doc. No. R27-8659; Filed August 23, 2026, 9:50 a.m.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS, WETLAND PROFESSIONALS, AND GEOLOGISTS

Final Regulation

REGISTRAR'S NOTICE: The Board for Professional Soil Scientists, Wetland Professionals, and Geologists 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: **18VAC145-20. Professional Soil Scientists Regulations (amending 18VAC145-20-145).**

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

Effective Date: November 1, 2026.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Board for Professional Soil Scientists, Wetland Professionals, and Geologists, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, fax (804) 527-4294, or email psswpg@dpor.virginia.gov.

Summary:

Pursuant to Chapter 460 of the 2026 Acts of Assembly, the amendment changes the requirement for continuing education from eight contact hours per year to eight hours per renewal cycle.

18VAC145-20-145. Continuing education requirements.

A. Licensees must complete eight hours of continuing education (CE) per ~~year~~ renewal cycle for renewal or reinstatement. CE must be completed pursuant to the provisions of this section.

B. CE must be completed during the time prior to the renewal or reinstatement of a license and will be valid for that renewal or reinstatement only.

C. CE activities completed by licensees may be accepted by the board, provided the activity:

1. Consists of content and subject matter directly related to the practice of soil science;

2. Has a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the practice of soil science and may be in areas related to business practices, including project management, risk management, and ethics, that have demonstrated relevance to the practice of soil science as defined in § 54.1-2200 of the Code of Virginia;

3. Contains an assessment by the sponsor at the conclusion of the self-directed activity; and

4. Results in documentation that verifies the licensee's successful completion of the activity.

D. Computation of credit.

1. Fifty contact minutes will equal one hour of CE. For activities that consist of segments that are less than 50 minutes, those segments will be totaled for computation of CE for that activity.

2. A licensee may not receive credit for any CE activity that was not completed in its entirety. No credit will be given for partial completion of a CE activity.

3. A licensee applying for renewal or reinstatement will not receive credit for completing a CE activity with the same content more than once during the time period prior to the renewal or reinstatement.

VA.R. Doc. No. R27-8672; Filed August 23, 2026, 8:49 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Proposed 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: **20VAC5-340. Rules Governing Shared Solar Program (amending 20VAC5-340-10, 20VAC5-340-40, 20VAC5-340-60, 20VAC5-340-65).**

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

Public Hearing Information: A public hearing will be held upon request.

Public Comment Deadline: October 9, 2026.

Agency Contact: Matthew Unger, Principal Analyst, Public Utility Regulation Division, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9849, or email matthew.unger@scc.virginia.gov.

Summary:

Pursuant to Chapters 670, 671, 673, and 674 of the 2026 Acts of Assembly, the proposed amendments (i) increase the caps on participation by customers of Phase I and Phase II Utilities, (ii) add requirements for net crediting by customers of a Phase I Utility, and (iii) adjust subscriber organization distribution of excess bill credits to subscribers.

AT RICHMOND, AUGUST 25, 2026

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2026-00127

Ex Parte: In the matter of amending regulations governing shared solar programs

ORDER ESTABLISHING PROCEEDING

The Rules Governing Shared Solar Program, 20VAC5-340-10 et seq. (Shared Solar Rules), adopted by the State Corporation Commission (Commission) pursuant to Virginia Code (Code) §§ 56-594.3 and 56-594.4, establish the requirements for customers of Virginia Electric and Power Company d/b/a Dominion Energy Virginia (Dominion) and Appalachian Power Company (APCo) to participate in shared solar projects.[1] Chapters 670, 671, 673, and 674 of the 2026 Virginia Acts of Assembly (collectively, 2026 Shared Solar Legislation) amended Code §§ 56-594.3 and 56-594.4, effective July 1, 2026. The 2026 Shared Solar Legislation modified certain statutory provisions applicable to Dominion's and APCo's shared solar programs.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to amend the Shared Solar Rules to comply with the 2026 Shared Solar Legislation.

To initiate this proceeding, the Commission Staff (Staff) has prepared proposed amendments (Proposed Amendments) to the Shared Solar Rules, which are appended to this Order. The Commission finds that notice of the Proposed Amendments should be given to the public; that interested persons should be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Amendments; and that Dominion and APCo should serve a copy of this Order upon each of their shared solar customers and registered subscriber organizations and file a certificate of service.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2026-00127.

(2) All comments or other documents and pleadings filed in this matter shall be submitted electronically to the extent authorized by Rule 5VAC5-20-150, Copies and format, of the Commission's Rules of Practice and Procedure (Rules of Practice).[2] Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and shall comply with Rule 5VAC5-20-170, Confidential information, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5VAC5-20-140, Filing and service, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such

information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) The Commission's Office of General Counsel shall forward a copy of this Order Establishing Proceeding to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(5) On or before September 11, 2026, Dominion and APCo shall serve a copy of this Order upon each of their existing shared solar customers and each of their registered subscriber organizations and shall file with the Clerk of the Commission a certificate of service no later than September 25, 2026.

(6) An electronic copy of the Proposed Amendments may be obtained by submitting a request to Matthew Unger in the Commission's Division of Public Utility Regulation at the following email address: matthew.unger@scc.virginia.gov. An electronic copy of the Proposed Amendments can also be found at the Division of Public Utility Regulation's website: scc.virginia.gov/regulated-industries/utility-regulation/pur-responsibilities/rulemaking. Interested persons may also download unofficial copies of this Order and the Proposed Amendments from the Commission's website: scc.virginia.gov/case-information.

(7) On or before October 9, 2026, any interested person may comment on, propose modifications or supplements to, or request a hearing on the Proposed Amendments following the instructions on the Commission's website: scc.virginia.gov/case-information/submit-public-comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such documents shall refer to Case No. PUR-2026-00127. Individuals should be specific in their comments, proposals, or supplements to the Proposed Amendments and should address only those issues pertaining to the 2026 Shared Solar Legislation. Issues outside the scope of addressing these amendments will not be open for consideration. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the comments, documents or other pleadings filed in this proceeding.

(8) On or before October 30, 2026, the Staff shall file with the Clerk of the Commission a report on or a response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Amendments.

(9) This matter is continued.

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

---

[1]Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of establishing regulations for a shared solar program pursuant to § 56-594.3 of the Code of Virginia, Case No. PUR-2020-00125, 2020 S.C.C. Ann. Rept. 574, Order Adopting Rules (Dec. 23, 2020); Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of amending regulations governing shared solar programs, Case No. PUR-2024-00122, 2024 S.C.C. Ann. Rept. 574, Order Adopting Regulations (Nov. 25, 2024).

[2]5VAC5-20-10 et seq.

20VAC5-340-10. Applicability.

A. This chapter is promulgated pursuant to §§ 56-594.3 and 56-594.4 of the Code of Virginia. The provisions of this chapter apply to Phase I Utilities, Phase II Utilities, subscriber organizations, and subscribers. The provisions of this chapter govern the development of shared solar facilities and participation in the shared solar program.

B. For a Phase I Utility, the maximum aggregate capacity of the shared solar program shall ~~be 50 megawatts or 6.0% of peak load, whichever is less~~ consist of parts of aggregate capacity, in the intervals established in § 56-594.4 of the Code of Virginia.

C. For a Phase II Utility, ~~part one~~ the maximum aggregate capacity of the shared solar program shall ~~be 200 megawatts. The program shall be expanded as part two by up to 150 megawatts upon a State Corporation Commission determination in response to a notification filed consistent with 20VAC5-340-40 G that at least 90% of the part one~~ consist of parts of aggregate capacity ~~has been subscribed and that project construction is substantially complete~~, in the intervals established in § 56-594.3 of the Code of Virginia. In part two of the shared solar program, no more than 51% of up to 450 megawatts aggregated capacity shall serve low-income customers and up to 75 megawatts of aggregated capacity shall be able to serve more than 51% of low-income customers.

D. Any shared solar facility may colocate on the same parcel of land as another shared solar facility only if such facilities are owned by the same entity and do not exceed an accumulative maximum capacity of 5,000 kilowatts among all such facilities. Such facilities will also be responsible for any special interconnection arrangements with the utility.

E. Customers participating in this program shall remain in the customer's present customer class but may not participate in the multi-family solar program, pursuant to Chapters 1187, 1188, 1189, and 1239 of the 2020 Acts of Assembly, or the net metering program, pursuant to 20VAC5-315, while participating in this program.

F. A Phase I Utility must file ~~any~~ updated tariffs, agreements, or forms necessary for implementation of the program by ~~July 1, 2025~~ March 1, 2027. A Phase II Utility must file updated tariffs, agreements, or forms necessary for implementation of the program by ~~December 1, 2025~~ March 1, 2027. Subscriber organizations may apply for licenses, register projects, interact with potential customers, and otherwise develop shared solar projects beginning in 2021.

G. The provisions of this chapter shall be deemed not to prohibit the Phase I Utility or Phase II Utility, in emergency situations, from taking actions it is otherwise authorized to take that are necessary to ensure public safety and reliability of the distribution system. The State Corporation Commission, upon a claim of inappropriate action or its own motion, may investigate and take such corrective actions as may be appropriate.

H. A request for a waiver of any of the provisions in this chapter shall be considered by the State Corporation Commission on a case-by-case basis and may be granted upon such terms and conditions as the State Corporation Commission may require.

20VAC5-340-40. Registration with the utility.

A. Subscriber organizations that are licensed, exempted, or granted a waiver from the commission consistent with 20VAC5-340-30 shall register each proposed shared solar facility with the utility by:

1. Providing proof of licensure, exemption, or waiver by the commission, as applicable.

2. Submitting to the utility the full name of the subscriber organization, address, and type of entity (e.g., partnership, corporation, etc.).

3. Providing the identity of the shared solar facility participating in the shared solar program, including an address of record and a copy of the executed Small Generator Interconnection Agreement or an Interconnection Service Agreement as defined by the regional transmission operator for the shared solar facility. Subscriber organizations also shall state the amount of capacity for the facility, including any percentage that will be subscribed by low-income subscribers, and provide proof that non-ministerial permits have been obtained for the shared solar facility. Subscriber organizations shall also state the facility's anticipated substantial completion date.

4. For a low-income shared solar facility, the subscriber organization shall provide a copy of its low-income subscription plan, as applicable.

5. Providing the names, telephone numbers, and email addresses of appropriate internal points of contact to address operational, business coordination, and customer account issues, and the names and addresses of their registered agents in Virginia.

6. In the event a license granted under 20VAC5-340-30 is transferred to another entity with approval from the commission, the subscriber organization must notify the utility within five business days of approval by the commission.

7. Providing reasonable financial security if required by the utility to safeguard the utility and its customers from the reasonably expected net financial impact due to the nonperformance of the subscriber organization. The amount of such financial security shall be commensurate with the level of risk assumed by the utility but shall not be greater than $50 per kilowatt (kW) alternating current. Such financial security may include a letter of credit, a deposit in an escrow account, a prepayment arrangement, a surety bond, or other arrangements that may be mutually agreed upon by the utility and the subscriber organization. Subscriber organizations deemed bona fide nonprofits shall be exempt from any security deposit or bond.

B. The utility shall provide to the subscriber organization the names, telephone numbers, and email addresses of appropriate internal points of contact to address operational, business coordination, and customer account issues.

C. The utility shall notify the subscriber organization within 30 days after the subscriber organization submits a shared solar facility registration to the utility whether the shared solar facility has been awarded capacity in the program queue or placed on a waiting list. When awarded capacity in the program queue, if required by the utility, the subscriber organization shall pay to the utility a security deposit or bond, whichever the subscriber organization chooses, in an amount determined by the utility of up to $50 per kW of alternating-current (AC) rated capacity of the shared solar facility within 10 days. Security deposits shall be held by the utility in an interest-bearing account. Deposits shall be returned in full, including interest, upon commercial operation of the shared solar facility and demonstration that the subscriber organization has satisfied its low-income subscription plan commitments.

D. Shared solar facility meter requirements. A shared solar facility must have a utility-provided meter capable of measuring output of the facility on a 30-minute interval basis.

1. The shared solar facility's meter shall not be located behind another utility customer account.

2. Costs of installation, maintenance, and reading of the meter shall be billed to the subscriber organization.

E. If a project approved January 1, 2025, or later fails to reach substantial completion within 24 months of the date the project was awarded capacity, the utility shall remove the project from the program queue unless the subscriber organization of the project provides to the utility an additional deposit of $75 per kW to maintain its position within the program queue. If, after paying the additional deposit, the project still fails to reach substantial completion within an additional nine months, the utility shall remove the project from the program queue. However, if the subscriber organization notifies the utility that the subscriber organization is prepared to proceed with the commissioning tests, as set forth in 20VAC5-314-90, or a comparable project milestone, and the utility must delay proceeding with the interconnection for reasons beyond the utility's control, the time periods in this subsection will be tolled until the utility is able to proceed with the interconnection.

If a project approved prior to January 1, 2025, fails to reach substantial completion within 36 months of the date it was awarded capacity, the utility shall remove the project from the program queue unless the subscriber organization of the project provides to the utility an additional deposit of $25 per kW to maintain its position within the program queue for an additional 12 months.

F. The utility shall maintain, on a publicly available website, a list of projects accepted into the program queue and those projects that are on the wait list. The list shall include project applicant name, project location, the alternating current capacity rating of the project, the date the application was accepted into the program queue, and either the date the project is anticipated to reach substantial completion or the date the project reached substantial completion.

1. For each accepted project in the program queue, the project list shall rank projects primarily by the date of the awarded capacity and secondarily by the date of anticipated substantial completion. Any subscriber organization with a project in the program queue shall notify the utility within 10 days of any reduction in a project's anticipated installed AC capacity or its ability to achieve the anticipated substantial completion date. The utility shall update the list within two business days of any change to the anticipated installed capacity in the program queue, and within 14 business days of any change to the date of substantial completion.

2. For each wait-listed project in the program queue, the list shall rank projects by the date the project was placed on the wait list. For a Phase I Utility's program or a Phase II Utility's program, a single project may have some portion of its capacity allocated ~~to the utility's part one aggregate capacity and the remaining portion allocated to the utility's part two~~ between different parts of the aggregate program capacity.

~~G. Once 90% of the part one aggregate capacity for a Phase II Utility has been subscribed and the related project construction is substantially complete, the Phase II Utility shall file a notification of this occurrence with the commission.~~

~~H.~~ G. Any project on the wait list that is moved off the wait list and receives a capacity award in the program queue shall have 10 business days to make the required deposit of $50 per kW of alternating-current rated capacity to retain the project's award.

~~I.~~ H. As part of its public program queue, the utility shall monitor and report the amount of capacity that has been allocated to low-income customers, which also shall be published on the utility's website. Capacity shall be released without undue delay and allocated first to projects on the wait list and, if capacity remains, to new applicants on a first-come, first-served basis following the registration requirements and process set forth in this section.

~~J.~~ I. Certain shared solar program projects shall be entitled to receive incentives, as established by the Virginia Department of Energy, when they are located on rooftops, brownfields, or landfills; are dual-use agricultural facilities; or meet the definition of another category established by the Department of Energy.

20VAC5-340-60. Phase I Utility: billing and payment.

A. Subscriber organizations shall provide subscriber information to the utility as follows:

1. Subscriber organizations must provide, on a monthly basis and in a standard electronic format and pursuant to this chapter, a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

2. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.

3. Monthly subscriber information must be provided by the fifth business day of the month.

4. Data transfer protocols for exchange of data between the subscriber organization and the utility shall be established to include:

a. Data components;

b. Data format;

c. Timing of monthly data exchanges;

d. Encryption level; and

e. Channel of data submission.

B. A subscriber organization ~~shall separately bill the subscriber for any applicable portion~~ may offer separate billing of ~~the shared solar~~ its subscription ~~fee~~ fees or choose to use the utility's consolidated billing service.

C. Consolidated billing will reflect net crediting, as set forth in subsection I of this section, and the utility will be the billing party to the customer.

1. Where a subscriber organization chooses to use consolidated billing, the subscriber organization's marketing materials and contracts must identify clearly that the utility may charge a net crediting fee not to exceed 1.0% of the bill credit value.

2. Where a subscriber organization chooses to use net crediting, any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

3. All billing of the customer shall occur and comply with the utility's normal billing and credit cycles.

D. Credits to subscriber bills shall occur within two billing cycles following the cycle during which the energy was generated by the shared solar facility.

~~D.~~ E. The utility shall, on a monthly basis and in a standardized electronic format, provide the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

~~E.~~ F. Except for low-income customers, failure of a subscriber to pay any regulated charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including the potential requirement to post a security or disconnection of service. The utility shall provide a notice of intent to terminate service to the subscriber directly of any pending disconnection action for nonpayment, consistent with the utility's practice as found in its approved tariff and 20VAC5-330, and this notice will occur separately from the customer bill. The bill shall clearly identify the amount that must be paid and the date by which such amount must be received and provide instructions for direct payment to the utility to avoid disconnection. A subscriber may not be disconnected for nonpayment of unregulated service charges.

~~F.~~ G. Bill credits.

1. Bill credits shall be for a particular calendar month, regardless of the billing period or billing cycle of the individual customer's account.

2. Bill credits shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any portion of a bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to subsequent bills until the earlier of when the credit is satisfied or up to 12 months.

3. In the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month, a subscriber organization may accumulate bill credits. The subscriber organization shall provide the utility allocation instructions for distributing excess bill credits to subscribers ~~on an annual basis~~.

4. The commission shall establish the yearly applicable bill credit rate for the subscriber's residential, commercial, or industrial rate class.

5. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

6. The bill credits associated with the shared solar program shall be applied through the utility's fuel factor.

~~G.~~ H. Minimum bill. In a proceeding, as prescribed in 20VAC5-340-80, the commission will determine the specific costs and formula to determine the minimum bill for program participants.

~~H. Termination fees and credit reporting. Early termination fees and credit reporting are prohibited for any low-income customer.~~

I. Net crediting.

1. Net crediting functionality shall be part of any new customer information platform approved by the commission.

2. Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization.

3. The net crediting fee shall not exceed 1.0% of the bill credit value.

4. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

J. Termination fees and credit reporting. Early termination fees and credit reporting are prohibited for any low-income customer.

K. Environmental attributes associated with a shared solar facility, including renewable energy certificates or RECs.

1. Any renewable energy certificates associated with a shared solar facility shall be distributed to a Phase I Utility to be retired for compliance with such Phase I Utility's renewable portfolio standard obligations pursuant to § 56-585.5 C of the Code of Virginia. Any contract between a subscriber organization and a participating customer must make clear that all RECs associated with a shared solar facility belong to the Phase I Utility only for compliance with such Phase I Utility's renewable portfolio standard obligation pursuant to § 56-585.5 C of the Code of Virginia.

2. As directed by § 56-594.4 B 7 of the Code of Virginia, mandatory distribution or transfer to the utility of the previous calendar year's RECs, ending December 31, shall take place prior to the annual report filing date for FERC Form 1 as defined in 18 CFR 141.1.

20VAC5-340-65. Phase II Utility: billing and payment.

A. Subscriber organizations shall provide subscriber information to the utility as follows:

1. Subscriber organizations must provide, on a monthly basis and in a standard electronic format and pursuant to this chapter, a subscriber list indicating the kilowatt-hours of

generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

2. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.

3. Monthly subscriber information must be provided by the fifth business day of the month.

4. Data transfer protocols for exchange of data between the subscriber organization and the utility shall be established to include:

a. Data components;

b. Data format;

c. Timing of monthly data exchanges;

d. Encryption level; and

e. Channel of data submission.

B. A subscriber organization may offer separate billing of its subscription fees or choose to use the utility's consolidated billing service.

C. Consolidated billing will reflect net crediting, as set forth in subsection I of this section, and the utility will be the billing party to the customer.

1. Where a subscriber organization chooses to use consolidated billing, the subscriber organization's marketing materials and contracts must identify clearly that the utility may charge a net crediting fee not to exceed 1.0% of the bill credit value.

2. Where a subscriber organization chooses to use net crediting, any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

3. All billing of the customer shall occur and comply with the utility's normal billing and credit cycles.

D. Credits to subscriber bills shall occur within two billing cycles following the cycle during which the energy was generated by the shared solar facility.

E. The utility shall, on a monthly basis and in a standardized electronic format, provide the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

F. Failure of a subscriber to pay any regulated charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including the potential requirement to post a security or disconnection of service. The utility shall provide a notice of intent to terminate service to the subscriber directly of any pending disconnection action for nonpayment consistent with the utility's practice as found in its approved tariff and 20VAC5-330, and this notice of intent to terminate service will occur separately from the customer bill. The bill shall clearly identify the amount that must be paid and the date by which such amount must be received and provide instructions for direct payment to the utility to avoid disconnection. A subscriber may not be disconnected for nonpayment of unregulated service charges. Low-income customers shall not be subject to early termination fees or credit reporting by the utility or a subscriber organization.

G. Bill credits.

1. Bill credits shall be for a particular calendar month, regardless of the billing period or billing cycle of the individual customer's account.

2. Bill credits shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any portion of a bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to subsequent bills until the earlier of when the credit is satisfied or up to 12 months.

3. In the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month, a subscriber organization may accumulate bill credits. The subscriber organization shall provide the utility allocation instructions for distributing excess bill credits to subscribers ~~on an annual basis~~.

4. The commission shall establish the yearly applicable bill credit rate for the subscriber's residential, commercial, or industrial rate class.

5. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

6. The bill credits associated with the shared solar program shall be applied through the utility's fuel factor.

H. Minimum bill.

1. In a proceeding, as prescribed in 20VAC5-340-80, the commission will determine the specific costs and formula to determine the minimum bill for program participants.

2. Low-income customers shall be exempt from the minimum bill. Costs associated with low-income customer participation shall be recovered by the utility in a manner to be determined by the commission in the proceeding set forth in 20VAC5-340-80.

I. Net crediting.

1. Net crediting functionality shall be part of any new customer information platform approved by the commission.

2. Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization.

3. The net crediting fee shall not exceed 1.0% of the bill credit value.

4. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

J. Environmental attributes associated with a shared solar facility, including renewable energy certificates or RECs.

1. A subscriber organization that registers a shared solar facility in the program within the first 200 megawatts alternating current of awarded capacity shall own all environmental attributes. At such subscriber organization's discretion, such environmental attributes may be distributed to subscribers, sold to load-serving entities with compliance obligations or other buyers, accumulated, or retired.

2. For a shared solar facility registered in the program after the first 200 megawatts alternating current of awarded capacity, the registering subscriber organization shall transfer renewable energy certificates to a Phase II Utility to be retired for compliance with such Phase II Utility's renewable portfolio standard obligations pursuant to § 56-858.5 C of the Code of Virginia. Any contract between a subscriber organization and a participating customer must make clear that all RECs associated with a shared solar facility belong to the Phase II Utility only for compliance with such Phase II Utility's renewable portfolio standard obligations pursuant to § 56-585.5 C of the Code of Virginia.

3. As directed by § 56-594.3 B 7 of the Code of Virginia, mandatory distribution or transfer to the utility of the previous calendar year's RECs, ending December 31, shall take place prior to the annual report filing date for FERC Form 1 as defined in 18 CFR 141.1.

VA.R. Doc. No. R27-8793; Filed August 27, 2026, 4:21 p.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Fast-Track Regulation

Title of Regulation: **22VAC20-20. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Assistive Technology Equipment (amending 22VAC20-20-10 through 22VAC20-20-90, 22VAC20-20-120; repealing 22VAC20-20-110).**

Statutory Authority: § 51.5-112 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 21, 2026.

Effective Date: November 5, 2026.

Agency Contact: Kathleen Frazier, Policy Planning Specialist II, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, Suite 203, Henrico, VA 23229, telephone (804) 662-7025, or email kathleen.frazier@vddhh.virginia.gov.

Basis: Section 51.5-112 of the Code of Virginia authorizes the Department for the Deaf and Hard-of-Hearing (VDDHH) to (i) adopt such regulations as may be necessary to carry out the purpose and intent of Chapter 13 (§ 51.5-106 et seq.) of Title 51.5 of the Code of Virginia and other laws of the Commonwealth administered by the Director of VDDHH or the VDDHH; and (ii) operate a program of technology assistance and services to encourage independence of persons who are deaf, hard-of-hearing, or speech impaired, including the distribution of devices for the deaf and support of message relay services, through grants, contracts, and other means, including a sliding fee scale where appropriate.

Purpose: The purpose of the amendments is to reduce redundancies in information regarding Technology Assistance Program (TAP) processes and update language used to improve clarity for TAP applicants and recipients, as well as those who operate TAP, including VDDHH staff and contractors. The amendments are necessary for the welfare of the public as the changes reflect the current TAP processes, improving clarity, access, and transparency for individuals that may apply for the program and those who support them in the application process.

Rationale for Using Fast-Track Rulemaking Process: This change is expected to be noncontroversial as the amendments do not impact TAP operations.

Substance: The amendments (i) update language to reflect modern technology options and to account for future technological advancements that may become available to recipients; (ii) provide that applications for TAP are accessible online and in person and that applications will be processed within 30 days of receipt by VDDHH; (iii) clarify that recipients are no longer required to return damaged technology to the vendor for the vendor to certify that the technology is beyond repair; (iv) remove references to potential prosecution of recipients who engage in fraudulent activity to obtain technology; and (v) clarify that responsibility for maintaining the confidentiality of award information rests solely with VDDHH and its contractors, not with applicants, recipients, or any nongovernmental entities.

Issues: The primary advantage to those served by TAP, including recipients, applicants, and potential applicants, is the updated language to reflect modern technology options and accounting for future advancements in technology, which allows for recipients to obtain these technologies and maintain communication access. The language encompasses the analogto-digital transition in technology. The remaining updates and reductions will clarify current TAP processes for recipients and those who have applied or are considering applying for services. The advantages of these changes for the agency are that updating the regulation to align with current terminology practices will reduce the time that agency representatives have to use to clarify misunderstandings that may be caused by discrepancies between the language of the regulation and the current terminology and practices, as well as clarifying that the program distributes updated technologies compared to those listed in the previous version of the regulation. There are no noted disadvantages to the public or Commonwealth with these changes.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The Department for the Deaf and Hard-of-Hearing (VDDHH) proposes to amend the regulation governing the Technology Assistance Program (TAP) in compliance with Executive Order 19 (2022)[2] by consolidating requirements; eliminating redundancies, outdated practices, and sections that are null; and clarifying definitions.

Background. This regulation governs the operation of the TAP, which is operated by VDDHH. The regulation outlines ownership of technology, eligibility requirements, charges for technology, the application process, and other general information regarding the TAP.

Estimated Benefits and Costs. It appears that the proposed changes only clarify the regulation and reduce the length of the text. Further, VDDHH states that the proposed amendments would not impact TAP operating procedures. Thus, no economic impact is expected other than improving the clarity of the regulation.

Businesses and Other Entities Affected. In fiscal year 2025, the TAP program served 185 customers and distributed 282 devices valued at $35,435. No entity appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] The proposal appears to contain only changes in language aimed at reducing the text and clarifying meaning. Thus, no adverse impact is indicated.

Small Businesses[5] Affected.[6] The proposed amendments do not appear to adversely affect small businesses.

Localities[7] Affected.[8] No impact, including any impact on a particular locality, is expected.

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

Effects on the Use and Value of Private Property. No impact on the use and value of private property. No impact on real estate development costs is expected.

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

[2] https://rosetta.virginiamemory.com/delivery/DeliveryManagerServlet?dps_pid=IE4126278.

[3] 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.

[4] 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.

[5] 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."

[6] 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.

[7] "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.

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

Agency Response to Economic Impact Analysis: The Department for the Deaf and Hard-Of-Hearing concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments (i) update language to reflect modern technology options and to account for future technological advancements that may become available to recipients; (ii) provide that applications for TAP are accessible online and in person and that applications will be processed within 30 days of receipt by the Department for the Deaf and Hard-of-Hearing (VDDHH); (iii) clarify that recipients are no longer required to return damaged

technology to the vendor for the vendor to certify that the technology is beyond repair; (iv) remove references to potential prosecution of recipients who engage in fraudulent activity to obtain technology; and (v) clarify that responsibility for maintaining the confidentiality of award information rests solely with VDDHH and its contractors, not with applicants, recipients, or any nongovernmental entities.

Chapter 20

Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Assistive Technology ~~Equipment~~

22VAC20-20-10. Definitions.

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

"Alerting device" means a device that alerts individuals with a hearing loss of sounds around them.

"Amplification device" means a device that amplifies either incoming sounds for individuals who have a hearing loss or outgoing sounds for individuals who have ~~a~~ speech ~~disability~~ <u>difficulties</u>.

"Applicant" means a person who applies for assistive technology ~~equipment~~.

"Application" means the TAP Application (VDDHH-TAP-1).

"Assistive technology ~~equipment~~" means any device<u>,</u> <u>equipment,</u> or adaptive ~~equipment for~~ <u>technology used to access</u> telecommunications ~~or alerting~~<u>, communications, or information technology</u> used by individuals who are deaf, hard of hearing, deafblind<u>,</u> or ~~speech-disabled~~ <u>have speech difficulties</u>.

"Audiologist" means any person who is licensed by the Department of Health Professions to engage in the practice of audiology.

~~"Completion date" means the date all supporting documentation for the application is received by the department.~~

~~"Coupon" means a voucher that may be used by the applicant towards the purchase of approved assistive technology equipment through the program.~~

"Deaf" means a hearing loss that requires use of ~~a text telephone or Voice Carry Over Phone~~ <u>assistive technology</u> to communicate effectively ~~on the telephone~~.

<u>"Deaf and hard of hearing regional specialist" means a person hired by or contracted with the department to provide outreach services and to assist the department in carrying out activities related to the Technology Assistance Program on either a regional or local level.</u>

"Deafblind" means a dual loss of hearing and vision that requires use of ~~a braille text telephone or a large visual display text telephone~~ <u>assistive technology</u> to communicate effectively ~~on the telephone~~.

"Department" means the Virginia Department for the Deaf and Hard-of-Hearing.

"Family" means the applicant, ~~his~~ <u>the applicant's</u> dependents<u>,</u> and any person legally required to support the applicant, including a spouse.

"Fiscal constraint" means when projected expenditures may exceed appropriated funds for equipment distribution within a budgeted period.

"Gross income" means the income, total cash receipts before taxes from all sources of the applicant, ~~his~~ <u>the applicant's</u> dependents, and any person legally required to support the applicant, including a spouse.

"Hard of hearing" means a hearing loss that requires use of ~~either a text telephone or an amplification device~~ <u>assistive technology</u> to communicate effectively ~~on the telephone~~.

"Hearing aid specialist" means a person who has a license from the Department of Professional and Occupational Regulation to fit and sell hearing aids.

~~"Hearing-disabled/visually-disabled" means a dual loss of hearing and vision that requires use of large visual display text telephone or a braille text telephone to communicate effectively on the telephone.~~

"Minor" means a person ~~less~~ <u>younger</u> than 18 years of age whose parent or legal guardian is legally responsible for ~~his~~ <u>the person's</u> support.

<u>"Pay coupon" means a voucher that may be used by the applicant toward the purchase of approved assistive technology through the program.</u>

<u>"Person with a hearing and vision loss" means a dual loss of hearing and vision that requires use of assistive technology to communicate effectively.</u>

<u>"Person with speech difficulty" means a loss of verbal communication ability that requires use of assistive technology to communicate effectively.</u>

"Physician" means a person who has a medical degree and a license to practice medicine in any ~~one of~~ <u>state within</u> the United States.

"Program" or "TAP" means Technology Assistance Program for distributing assistive technology ~~equipment~~ to individuals who are deaf, hard of hearing, ~~hearing-disabled/visually-disabled,~~ <u>or</u> deafblind<u>; individuals with a hearing and vision loss;</u> or ~~speech-disabled~~ <u>individuals with speech difficulties</u> and who meet eligibility requirements through an application process.

"Public assistance" means and includes Temporary Assistance to Needy Families (TANF); Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI); auxiliary grants to the aged, blind and disabled; medical assistance; food stamps; general relief; fuel assistance; and social services.

"Recipient" means a person who receives assistive technology ~~equipment~~.

"Ring signal device" means a device that alerts an individual who is deaf, hard of hearing, ~~hearing-disabled/visually-disabled~~ or deafblind or an individual with a hearing and vision loss of an incoming call or sound.

~~"Speech-disabled" means a loss of verbal communication ability that prohibits normal usage of a standard telephone handset.~~

"Speech-language pathologist" means any person who is licensed by the Department of Health Professions to engage in the practice of speech-language pathology.

~~"Text telephone" (hereinafter called TTY) means a nonvoice terminal device used to transmit and receive messages telephonically. This includes, but is not limited to, telecommunications devices for the deaf (TDD/TTY) and computer software.~~

~~"VDDHH outreach specialist" means a person hired by or contracted with the department to provide outreach services and to assist the department in carrying out activities related to the Technology Assistance Program on either a regional or local level.~~

"Vendor" means a company that enters into a contract with the Commonwealth to provide assistive technology ~~equipment~~ as defined in this ~~regulation~~ chapter.

22VAC20-20-20. Ownership guidelines.

~~A. Any assistive technology equipment distributed through the program is the property of the individual recipient except for any device which, individually, has a cost to the program or the program recipient in excess of $5,000 at the date of acquisition.~~

~~B.~~ The department shall retain ownership of any assistive technology ~~equipment~~ distributed through the program that costs $5,000 or more. Where ownership of assistive technology ~~equipment~~ is retained by the department, information regarding income and family size shall not be required.

22VAC20-20-30. Eligibility requirements.

Upon request for assistive technology ~~equipment~~ by an applicant, the department will require information as to the family size, financial status, and other related data as described on the application before determining what charges, if any, the applicant will be required to pay for assistive technology through the program. Applicants eligible to participate in the program shall meet the following requirements:

1. The applicant must be certified as deaf, hard of hearing, ~~hearing-disabled/visually-disabled~~ or deafblind; a person with a hearing and vision loss, ~~deafblind,~~; or ~~speech-disabled~~ a person with speech difficulty by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, vocational rehabilitation counselor employed by the Department ~~of~~ for Aging and Rehabilitative Services or the Department for the Blind and Vision Impaired, a Virginia School for the Deaf and Blind representative, a ~~VDDHH outreach~~ deaf and hard of hearing regional specialist, or other appropriate agency or government representative.

2. The applicant shall provide one of the following, in the name of the applicant or the applicant's spouse or legal guardian, as proof of residency in the Commonwealth of Virginia:

a. Current lease or deed to domicile in Virginia;

b. A utility bill, dated within ~~12~~ six months of the submission, for a residence in Virginia; or

c. Any other form of proof approved by the department.

~~3. The applicant shall provide correct and verifiable information on the family's gross income. The department reserves the right to request verification of income from any program applicant before determining what charges, if any, the applicant will be required to pay for assistive technology equipment through the program.~~

~~4.~~ 3. The applicant shall submit a completed and signed application.

22VAC20-20-40. Charges for ~~equipment~~ assistive technology.

Eligible applicants shall be granted program participation based on a first-come, first-served basis and the availability of program funds. ~~If the individual or family monthly gross income is such that a charge for assistive technology equipment is required, an explanation of the charges shall be provided to the recipient.~~

1. An applicant shall not be required to participate in the cost of assistive technology ~~equipment~~:

a. If family monthly gross income is:

(1) Obtained solely from public assistance, as defined in Part I of this chapter, earnings of minor children or gifts, or any combination thereof; or

(2) Less than or equal to 250% of the poverty guidelines updated ~~periodically~~ annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC § 9902(2)~~.~~; or

b. If ownership of assistive technology equipment is retained by the department.

2. ~~Any~~ An applicant whose annual income exceeds 250% of the Federal Poverty Guidelines shall be required to pay to the vendor or to the department an amount equal to the full state contract cost or actual state invoice cost of the requested ~~equipment~~ assistive technology.

3. If an applicant is paying monthly installments toward a ~~debt(s)~~ debt, then the amount of one monthly installment will be subtracted from the applicant's expected contribution before the valid amount owed is determined, under the following conditions:

a. The ~~debt(s)~~ debt is owed for nonpreventative medical or dental services; and

b. The ~~debt(s)~~ debt is owed by or for the applicant or individuals whom the applicant is legally responsible to support or is legally supported by.

22VAC20-20-50. Type of ~~equipment~~ assistive technology.

The ~~equipment~~ assistive technology that may be available through the program includes ~~but is not limited to: TTY/TDDs, large visual display TTY/TDDs, braille TTY/TDDs,~~ specialized devices and technology designed to support equal access to communication and information, amplification devices, ring signal devices, doorbell ~~signallers~~ signalers, visual smoke/fire detectors, baby sound monitors, smart phones, tablets, alerting devices, and visual or vibrating alarm clocks.

22VAC20-20-60. General.

The application may be obtained from the department in person or online or the department's ~~outreach~~ deaf and hard of hearing regional specialists or other sites around the state. ~~Completed applications shall be forwarded to:~~

~~Virginia Department for the Deaf and Hard-of-Hearing~~
~~ATTN: VDDHH-TAP~~
~~1602 Rolling Hills Drive, Suite 203~~
~~Richmond, Virginia 23229-5012~~

The VDDHH telephone number is 1-800-552-7917 ~~(V/T)~~ (V) or (804) 662-9502 ~~(V/TTY)~~ (V).

22VAC20-20-70. Processing applications.

A. The department shall approve all applications for which eligibility requirements defined in 22VAC20-20-30 are satisfied, except as provided in this section. Priority may be given to first-time applicants and to recipients who have not received equipment through the program during the preceding 48 months and are without fully functioning equipment as verified in writing by a VDDHH-approved agency representative or vendor during times of fiscal constraint, as determined by the director.

B. Application shall not be approved when:

1. The applicant who must contribute has already been issued a pay coupon that is still valid and has not been redeemed ~~towards~~ toward the purchase of assistive technology ~~equipment~~ under this program.

2. The applicant has received a device from TAP within the preceding four years except for conditions set in subsections D and E of this section.

C. Application for replacement ~~equipment~~ assistive technology shall not be approved when:

1. ~~A device~~ Assistive technology previously issued by the department has been subjected to abuse, misuse, or unauthorized repair by the recipient.

2. The recipient fails to provide a police report of a stolen device or refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court when requested to do so.

3. The recipient is found negligent in the police report, such as doors to the house or car left unlocked or unattended.

4. The recipient has lost the device.

5. The recipient has sold the device.

D. Replacement ~~equipment~~ assistive technology may be given within a four-year period if assistive technology ~~equipment~~ is damaged through natural disasters, such as lightning, electrical storms, or floods. ~~The recipient must first send damaged equipment to the vendor. The vendor must certify to the department that the equipment, provided it is still under valid warranty, is unrepairable due to natural disaster.~~ The recipient must provide proof that the damage was not covered by homeowners or rental insurance. The agency shall issue a replacement ~~device~~ piece of assistive technology to the recipient, upon reapplication, either free or at the full cost of the requested ~~equipment~~ technology, depending on eligibility criteria as outlined in 22VAC20-20-40.

E. Exchange of ~~equipment~~ assistive technology may be permitted where the original ~~equipment~~ technology can no longer be used by a recipient due to deteriorating vision or hearing or when a new ~~device~~ technology has become available through TAP and is deemed more appropriate to the recipient's disability than a ~~device~~ technology previously issued to the recipient. A recipient must submit a letter from a professional listed in 22VAC20-20-30 stating that the recipient would achieve a more appropriate benefit from the new ~~device~~ assistive technology on the basis of the individual's disability.

22VAC20-20-80. Notice of action on approved or denied applications.

The applicant shall be notified of a decision regarding an application within 30 calendar days of the ~~completion date~~ receipt of application.

22VAC20-20-90. Fraud.

If a recipient obtains assistive technology ~~equipment~~ under false pretenses or misrepresentation of facts on the TAP application, the department reserves the right to demand return of ~~such equipment~~

<u>the technology</u>. ~~Such a recipient may be prosecuted to the fullest extent of the law.~~

22VAC20-20-110. ~~Liability.~~ <u>(Repealed.)</u>

~~Recipients shall be responsible for any repairs to or loss of a device issued in the program, except where the department retains ownership of the device.~~

22VAC20-20-120. Confidentiality.

All TAP applications and other client materials shall be kept confidential by department personnel and other persons authorized by the department to view ~~such~~ <u>the</u> materials. ~~An~~ <u>The department shall keep confidential an</u> applicant's award ~~shall also be confidential and shall not be released without~~ <u>unless</u> the ~~applicant's~~ <u>applicant grants the department</u> permission <u>to make a disclosure</u>.

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

FORMS (22VAC20-20)

~~Technology Assistance Program Application, VDDHH-TAP-1.~~

<u>Technology Assistance Program Application, VDDHH-TAP-3 (eff. 6/2022)</u>

VA.R. Doc. No. R27-8496; Filed August 26, 2026, 9:23 a.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Forms

<u>REGISTRAR'S NOTICE:</u> Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

<u>Title of Regulation:</u> **24VAC30-325. Urban Maintenance and Construction Policy.**

<u>Agency Contact:</u> Steven Jack, Regulatory Manager, Department of Transportation, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 786-3885, or email steven.jack@vdot.virginia.gov.

FORMS (24VAC30-325)

~~Form U-1 – Request for Street Additions and Deletions for Street Payments (Rev. 1/07)~~

~~Form U-2 – Request for Change in Functional Classification System (Rev. 1/07)~~

~~Form U-5 – Principal-Minor Arterial Streets Street Condition Report (Rev. 1/07)~~

<u>No form is currently required by the regulation.</u>

VA.R. Doc. No. R27-8781; Filed August 26, 2026, 8:29 a.m.

EXECUTIVE ORDER 20 (2026)

KEEP VIRGINIA COVERED

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 §§ 2.2-103 and 2.2-110 of the Code of Virginia, I hereby direct the actions below to mitigate the harms caused by the "One Big Beautiful Bill" Act ("OBBBA").

Consistent with this Order, the Commonwealth will implement the OBBBA in a manner that maximally supports continuity of coverage, protects healthcare and food assistance programs, promotes economic mobility and family well-being, and improves statewide coordination.

Importance of the Issue

Access to healthcare and food assistance is essential to the health and economic well-being of Virginians, and Virginia's economy. Over 1.8 million Virginians are enrolled in Medicaid and nearly 800,000 Virginians are enrolled in the Supplemental Nutrition Assistance Program ("SNAP").

On July 4, 2025, the federal government enacted the OBBBA, which makes the largest cuts to Medicaid and SNAP in these programs' history. The OBBBA puts Virginia's entire health and human resources system at risk due to loss of funding, structural uncertainty, and the addition of significant limits on state flexibilities for lifesaving benefit programs. Additionally, the OBBBA makes substantial changes to the administration and eligibility requirements of Medicaid and SNAP, which will result in Virginians losing health coverage and food benefits at a time when everyday living expenses are increasing and putting financial pressure on Virginians.

The OBBBA added administrative requirements, that when previously implemented in other states have resulted, not in program integrity increases, but instead in significant coverage loss for eligible members – including but not limited to individuals who are working full-time. This loss of coverage will strain Virginia's healthcare safety net and major healthcare institutions alike. Changes to Medicaid and SNAP financing will result in billions of dollars in lost federal dollars to the Commonwealth, resulting in Virginians – including those with private insurance – losing access to healthcare providers, hospitals, and other critical services needed for a healthy, productive life.

The Commonwealth is committed to being honest with its citizens: the OBBBA's federal funding reductions and eligibility reductions cannot be fully replaced through state action, philanthropic giving, or private healthcare industry investment. No combination of the tools available to the Commonwealth can close a gap of this magnitude.

While the Commonwealth will implement what has been mandated by the federal government, the Commonwealth remains committed to keeping eligible Virginians covered by minimizing coverage loss caused by the OBBBA's intentionally burdensome administrative processes. The Commonwealth will execute these mitigation strategies by streamlining processes where possible, building public-private partnerships, and leveraging resources across Virginia.

Directives

Pursuant to the authority vested in me as Chief Executive Officer of the Commonwealth and pursuant to Article V of the Constitution of Virginia, I hereby announce the Keep Virginia Covered policy, which will ensure that executive agencies prioritize continuity of coverage by minimizing administrative burdens and promoting economic mobility, family well-being, healthcare access, and affordability.

Specifically, I am directing the Secretary of Health and Human Resources, as well as agencies under the Secretariat's authority — including the Department of Medical Assistance Services ("DMAS") and the Department of Social Services ("DSS") — to implement the OBBBA in accordance with the Keep Virginia Covered policy to mitigate the most negative impacts of the OBBBA. While the Commonwealth cannot protect Virginians against all harm caused by the OBBBA, where state discretion is permissible, the Secretary of Health and Human Resources and all relevant agencies shall use the following Keep Virginia Covered policy principles to guide implementation of the OBBBA:

Keep every Virginian who remains eligible for Medicaid or SNAP enrolled and covered;

Minimize administrative and procedural barriers to enrollment and renewal wherever federal law affords the Commonwealth discretion;

Provide meaningful opportunities for economic mobility, workforce development, and employment resources;

Provide alternative opportunities for coverage and access to health and food services where feasible; and

Build public-private partnerships that bring the Commonwealth's full civic and philanthropic capacity to bear where state government alone cannot fill the gap left by federal red tape and reduced funding.

In furtherance of the Keep Virginia Covered policy, I hereby direct the following actions:

1. Advance administrative simplification: Build the systems needed to process eligibility correctly and efficiently, while leveraging available internal resources to minimize administrative burdens on Virginians.

To the fullest extent permitted under federal law, the Secretary of Health and Human Resources shall ensure that DMAS and DSS take the following actions to guide Virginians through the renewal processes for Medicaid and SNAP:

- Use plain-language notices and multi-channel outreach before any coverage or benefit action is taken;
- Bolster staffing at call centers and outreach navigator capacity to address increased demand;
- Align and streamline redetermination, verification, and reporting processes to reduce duplicate paperwork;
- Reduce application burdens by expanding the use of information Virginians have already provided or is securely available, including through collaboration with peer agencies; and
- Provide a clear, accessible cure period and appeals pathway.

All executive branch agencies shall, upon request, collaborate with DMAS, DSS, and the Chief Transformation Officer to maximize the use of available information consistent with this Order.

DMAS and DSS shall continue to provide and develop additional public resources for Virginians to inform individuals about steps necessary to maintain coverage. Resources shall be publicly available by October 1, 2026.

2. Engage Community Partners and Stakeholders: Ensure that community voices are heard as part of the planning and implementation of the OBBBA.

I hereby direct the Secretary of Health and Human Resources to engage representatives from hospitals, safety net providers, Managed Care Organizations, Federally Qualified Health Centers, Community Services Boards, free clinics, food banks, and other stakeholders to inform policy and implementation processes and coordinate on the challenges leading up to and following implementation of the OBBBA. This coordination shall also satisfy the OBBBA's requirement for dedicated coordination between state agencies and Virginia's health care system and other stakeholders.

DMAS shall host virtual town halls to inform the public and health providers across the Commonwealth of new requirements, how to meet the requirements, and how to report changes to the Commonwealth to ensure that individuals who remain eligible also remain enrolled. Additionally, the Secretary of Health and Human Resources, in collaboration with DSS and DMAS, shall hold regional outreach workshops in locations across the Commonwealth to inform local responses to the detrimental impacts of the OBBBA and strengthen public-private partnerships as a means to mitigate those impacts.

Additionally, DMAS and DSS shall promote data transparency to enable greater collaboration across entities. To facilitate this, DMAS and DSS are directed to regularly update and publish data on Medicaid and SNAP enrollment and "at-risk" members to inform community partners of the impact of the OBBBA.

3. Promote Economic Mobility: Provide meaningful opportunities for economic mobility through enhanced employment, Registered Apprenticeship, and education resources to mitigate the effects of the OBBBA.

The Secretary of Health and Human Resources, in coordination with the Secretary of Labor and the Secretary of Education, shall take the following additional actions to drive economic mobility for Virginians despite the negative effects of the OBBBA and to ensure that Virginians take advantage of new opportunities to earn a living wage, develop new skills, and retain benefits:

- Expand and improve resources connecting Virginians to available employment, volunteer, Registered Apprenticeship, job training, and education opportunities; and
- Expand case management and resource coordination for Virginians subject to new Medicaid and SNAP work requirements to prioritize individuals with greatest needs.

4. Provide alternative coverage options and access to services where feasible: Collaborate with other state entities and private partners to offer alternative solutions for individuals no longer able to access Medicaid or SNAP benefits.

The Secretary of Health and Human Resources, in coordination with DMAS and DSS, shall take the following steps to ensure Virginians are connected to available solutions:

- Collaborate with the State Corporation Commission and Virginia's Health Benefit Exchange to implement the state-created $150 million Virginia Premium Support Program to support the implementation of affordable health coverage after federal inaction skyrocketed costs;
- Coordinate warm handoffs and outreach on coverage changes across Virginia's agencies and with stakeholders across Virginia's health care infrastructure and safety net; and
- Partner with philanthropy and community-based organizations, Federally Qualified Health Centers, free clinics, and food banks to support innovative solutions to address surge in demand at a time of dwindling funding.

5. Maximize use of available funding to effectively implement the Keep Virginia Covered policy: Use appropriated funds to prioritize implementation of the Keep Virginia Covered policy in alignment with the principles described herein.

In addition to the funding request process established by Item 471 M 2 of House Bill 30 (i.e., the Budget Bill), and without prejudicing any requests received under the existing application process, the Secretary of Finance and the Department of Planning and Budget ("DPB") shall prioritize proposed uses of the Federal Uncertainty Contingency Fund that best advance the goals of this Order. The Secretary of Finance and DPB shall review agency requests for funding on an ongoing basis and communicate recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees as necessary to protect Virginians from ongoing federal uncertainty and to support the implementation of the Keep Virginia Covered policy. See Nelms v. Vaughn, 84 Va. 696, 700 (1888) ("Generally the rule is where a statute specifies a time within which a public officer is to perform an act regarding the rights and duties of others, it will be considered as merely directory . . . .").

* * *

The Secretary of Health and Human Resources shall provide quarterly updates to the Office of the Governor on the progress of the actions described above, including but not limited to coverage losses, outreach efforts and campaigns, and budget implications.

Effective Date of the Executive Order

This Executive Order shall become effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th day of August 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

Title of Document: VBOA Policy - Inactive and Emeritus License Status.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 2026.

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

CRIMINAL JUSTICE SERVICES BOARD

Title of Document: Court Appointed Special Advocate and Children's Justice Act Advisory Committee Guidance Policy for Court Appointed Special Advocates Programs.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 2026.

Agency Contact: Kristi Shalton, Policy and Program Manager, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 987-0332, or email kristi.shalton@dcjs.virginia.gov.

STATE BOARD OF EDUCATION

Title of Document: Board of Education Approved Courses to Satisfy Graduation Requirements for the Standard and Advanced Studies Diplomas in Virginia Public Schools.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 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: Chapter 1 Provider Manual Update.

Chapter 3: Eligibility.

Emergency Medicaid Supplement.

Mental Health Services Manual, Appendix D.

Mental Health Services Manual, Appendix G.

Temporary Detention Orders Supplement.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 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.

BOARD OF PHYSICAL THERAPY

Title of Document: Guidance on Diagnostic Imaging Referrals by Physical Therapists.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 2026.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

Titles of Documents: Administrative Human Resources (HR) Manual Introduction and Chapter 1: Equal Employment Opportunity and Accessibility.

Administrative HR Manual Chapter 2: Classification and Compensation.

Administrative HR Manual Chapter 3: Recruitment and Selection.

Administrative HR Manual Chapter 4: Leave.

Administrative HR Manual Chapter 5: Operations of the Local Departments of Social Services.

Administrative HR Manual Chapter 6: Performance Evaluation and Standards of Conduct.

Administrative HR Manual Chapter 7: Discipline and Termination of Employment.

Administrative HR Manual Chapter 8: Personnel Records.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 2026.

Agency Contact: Zachary Davis, Policy Consultant, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 987-8139, or email zachary.davis@dss.virginia.gov.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Document: 2027 Grant Manual for the Virginia Dam Safety, Flood Prevention, and Protection Assistance Fund.

Public Comment Deadline: October 21, 2026.

Effective Date: October 22, 2026.

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

GENERAL NOTICES

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

2026 Annual Report on the Agricultural Stewardship Act Available for Review

The Commissioner of Agriculture and Consumer Services announces the availability of the annual report on the Agricultural Stewardship Act for the program year April 1, 2025, through March 31, 2026. Copies of the report are available without charge. A copy of the report can be obtained by submitting a request to the Department of Agriculture and Consumer Services (VDACS) contact listed. The report is also available on the VDACS website at http://www.vdacs.virginia.gov/conservation-and-environmental-agricultural-stewardship.shtml.

Contact Information: Darrell Marshall, Agricultural Stewardship Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-2658, or email darrell.marshall@vdacs.virginia.gov.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Opportunity for Public Comment on Draft Amendments to the Certified Recovery Residences Regulations

The Department of Behavioral Health and Developmental Services (DBHDS) is seeking informal public comment on draft amendments to the Certified Recovery Residences Regulations (12VAC35-260).

The DBHDS Office of Regulatory Affairs, in collaboration with the Office of Addiction, Recovery, and Wellness Supports, developed the preliminary text pursuant Chapters 1000 and 1079 of the 2026 Acts of Assembly, which direct the Board of Behavioral Health and Developmental Services to promulgate regulations establishing minimum certification standards for recovery residences. Public comment on these initial draft amendments will help inform the board's standard three-stage regulatory action to be initiated in 2026-2027.

Public Comment Deadline: September 25, 2026.

The draft amendments are available at https://dbhds.virginia.gov/wp-content/uploads/2026/08/Recovery-Residence-Workgroup-draft.pdf.

Contact Information: Susan Puglisi, Regulatory Research Specialist, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, Fourth Floor, Richmond, VA 23219, fax (804) 371-6638, TDD (804) 371-8977, or email susan.puglisi@dbhds.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Bedford Regional Water Authority

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Bedford Regional Water Authority for violations of State Water Control Law, regulations, and applicable permit at the Moneta Regional wastewater treatment plant located in Bedford, 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 September 21, 2026, to October 21, 2026.

Contact Information: Joseph Heller, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 904 Russell Drive, Salem, VA 24153, or email joseph.r.heller@deq.virginia.gov.

Proposed Enforcement Action for Motorplex Inc.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Motorplex Inc. for violations of State Water Control Law, regulations, and applicable permit at the unpermitted land disturbance at parcels 34378, 34379, and 34380 Commerce Lane located in South Boston, 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 September 21, 2026, to October 21, 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 the Town of Glasgow

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for the Town of Glasgow for violations of State Water Control Law, regulations, and applicable permit at the Town of Glasgow wastewater treatment plan located in Glasgow, 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 September 21, 2026, to October 21, 2026.

Contact Information: Francesca Wright, Enforcement Specialist, Department of Environmental Quality, Valley

Regional Office, 4411 Early Road, Harrisonburg, VA 22801, or email francesca.wright@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Applied Behavior Analysis Workgroup Public Meetings

The Department of Medical Assistance Services (DMAS) is hosting a workgroup as directed by the General Assembly regarding the utilization of applied behavior analysis (ABA).

In this six-meeting series, the first workgroup meeting will take place on September 22, 2026, from 1 p.m. to 3:00 p.m.

Agenda items include: background of Virginia Medicaid's ABA benefit; purpose of the workgroup; statewide data on utilization trends; managed care organization (MCO) data on utilization trends, including by delivery method; and high level overview of clinical best practice guidelines.

Meeting details for Microsoft Teams meeting:
Join: https://teams.microsoft.com/meet/221475508908737?p=pkjoMTLtUmYQX28mkY
Meeting ID: 221 475 508 908 737 Passcode: Mq6xD7ed
Budget Item 291 13 C:

"3. The Department of Medical Assistance Services (DMAS) shall convene an ABA benefit Utilization Workgroup for the purpose of examining Medicaid expenditures and utilization trends for this service and identifying strategies to control costs while still preserving access to care for those in need of the therapy. The workgroup shall: (i) identify utilization trends, including trends among those with different diagnosis acuity levels; (ii) examine different delivery methods of ABA services and their impact on utilization; (iii) review utilization and service authorization criteria including standard assessment tools and diagnostic criteria taking into account differing service intensity and duration requirements; (iv) evaluate utilization management tools that align with national clinic practice guidelines promulgated by independent national nonprofit organizations; (v) define medical necessity criteria taking into account behavioral factors, ability to learn, age and development, and skills development including clear criteria for eligibility, scope of services and documentation requirements; (vi) review provider qualification recommendations related to ABA practitioner certification and licensing; and current supervision requirements and standards to help ensure appropriate clinical oversight; (vii) evaluate the appropriateness of ABA services for children with diagnoses other than ASD; and (viii) review the MCO annual reporting data to identify any areas of potential improvement to the delivery of services and any needed changes in regulations or policies from DMAS. The workgroup shall include stakeholders, including ABA service providers, including center-based models and home-based models, representatives from managed care organizations serving Medicaid patients, Virginia licensed behavioral analysts, and a child or adolescent psychiatrist. The workgroup meetings shall be open to the public and offer opportunities for public input."

Contact Information: Shamika Ward, Behavioral Health Program Specialist, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 773-1187, or email shamika.ward@dmas.virginia.gov.

Opportunity for Public Review of Community Psychiatric Support and Treatment - Youth, School Setting

The Virginia Department of Medical Assistance Services (DMAS) is seeking public comment on a new behavioral health service, Community Psychiatric Support and Treatment (CPST) - Youth, School Setting.

DMAS appreciates the comments received during previous public comment periods and is providing a revised draft CPST - Youth, School Setting service description available at https://dmas.virginia.gov/media/5ngi2vod/dmas-community-psychiatric-support-and-treatment-draft-school-setting-policy-08312026v2.pdf.

A summary of changes made to the previous draft is located at https://www.dmas-devbo.dmas.virginia.gov/media/0vkijs5c/dmas-community-psychiatric-support-and-treatment-school-setting-policy-change-summary-08-31-2026.pdf.

Additional information on Medicaid Behavioral Health Services Redesign is available on the DMAS website at https://www.dmas.virginia.gov/for-providers/benefits-services-for-providers/behavioral-health/medicaid-behavioral-health-services-redesign/.

Contact Information: Syreeta Stewart, Regulatory Coordinator, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, TDD (800) 343-0634, or email syreeta.stewart@dmas.virginia.gov.

Opportunity for Public Review of and Comment on Intent to Amend State Plan - Cell and Gene Therapy Model - Unbundle Diagnosis Related Group

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

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the DMAS contact listed at the end of this notice.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes. Comments or inquiries may be submitted in writing until September 24, 2026, to the DMAS contact, and such comments are available for review at the same address. 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) and Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80).

In accordance with Item 291 WWWWW 1 and 2 of the 2026 Appropriation Act, the State Plan will be revised to allow DMAS to participate in the Centers for Medicare and Medicaid Services (CMS) Cell and Gene Therapy Access Model, which is a partnership between CMS and states to provide sickle cell treatments for Medicaid members. A previous State Plan amendment (SPA) was filed with CMS to provide authority for value-based payment arrangements that are part of the model. This SPA reimburses hospitals for selected carved-out drugs separately from the inpatient All Patient Refined Diagnosis Related Group (APR-DRG) payment for drugs approved under the model. A separate outpatient claim will be submitted by the hospital for the reimbursement of these drugs at the acquisition cost.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures as a result of these changes.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 768-1680, TDD (800) 343-0634, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of and Comment on Intent to Amend State Plan - Changes to Supplemental Payments, Graduate Medical Education Residencies, and Rural 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; In-Patient Hospital Care (12VAC30-70) and Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the DMAS contact listed at the end of this notice.

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 until September 26, 2026, to the DMAS contact, and such comments are available for review at the same address. Comments may also be submitted in writing on the Virginia Regulatory Town Hall public comment forum at https://townhall.virginia.gov/L/generalnotice.cfm.

In accordance with the 2025 Appropriations Act, DMAS will be making the following changes:

Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care (12VAC30-70) and Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80)

Item 291 LL 2: The state plan is being revised to modify supplemental payments for freestanding children's hospitals to equal the greater of what would have been paid to the freestanding children's hospitals under the current disproportionate share hospital (DSH) formula or annually the DSH formula effective in fiscal year 2026. These additional hospital supplemental payments shall take precedence over supplemental payments for private hospitals.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures in federal fiscal year 2027 or federal fiscal year 2028.

Item 291 QQ 2: The state plan is being revised to make supplemental payments for each new qualifying residency slot $145,000 annually minus any Medicare residency payment for which the sponsoring institution is eligible. For any residency program at a facility whose number of residency slots are above the cap set by the Centers for Medicare and Medicaid Services (CMS) or have exceeded the upper payment limit set by CMS, the supplemental payments for each qualifying residency slot shall be $72,500 from the general fund annually.

The expected increase in annual fee-for-service aggregate expenditures is $2,698,920 in state general funds and $2,701,080 in federal funds in federal fiscal year 2027, and $2,698,920 in state general funds and $2,701,080 in federal funds in federal fiscal year 2028.

Item 3-5 14 J: The state plan is being revised to require rural hospitals receiving enhanced payments to retain labor and delivery units. DMAS shall not provide private enhanced payments in the form of state directed payments to any rural hospital that does not currently operate a labor and delivery unit but such unit was operational in the rural hospital on January 1, 2026. For the purposes of this item, "rural hospital" means the same as defined CMS.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures in federal fiscal year 2027 or federal fiscal year 2028.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 768-1680, TDD (800) 343-0634, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of and Comment on Intent to Amend State Plan - Indirect Medical Education

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 of § 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 DMAS contact listed at the end of this notice.

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 until September 25, 2026, to the DMAS contact, and such comments are available for review at the same address. Comments may also be submitted in writing on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

In accordance with the 2026 Appropriations Act, DMAS will be making the following changes:

Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care (12VAC30-70)

Item 291 JJ 10: The state plan is being revised to make supplemental payments through an adjustment to the formula for indirect medical education (IME) reimbursement, using managed care discharge days, for an acute care hospital system whose Virginia hospitals are located entirely in Planning Districts 1, 2, or 3, upon the execution of affiliation agreements with public entities that are capable of transferring funds to DMAS for purposes of covering the non-federal share of the authorized payments.

The expected increase in annual fee-for-service aggregate expenditures is $28,492,410 in federal funds in federal fiscal year (FFY) 2027 and in FFY 2028. The expected non-federal share will be $7,733,548 in FFY 2027 and in FFY 2028.

Item 291 JJ 11 a-b: The state plan is being revised to make supplemental IME payments for managed care services for private teaching hospitals that have executed affiliation agreements with public entities that are capable of transferring funds to DMAS for purposes of covering the non-federal share of the authorized payments.

The supplemental IME payments for managed care services shall be based on the Medicare formula using total residents reported to DMAS annually by the hospital prior to the beginning of the fiscal year for the resident-to-bed ratio applied to managed care hospital payments reported to DMAS through the encounter system adjusted to cost minus IME payments for managed care services currently authorized. DMAS shall calculate these supplemental IME payments prior to the beginning of the fiscal year based on the most recently available data and these payments shall be final.

The expected increase in annual fee-for-service aggregate expenditures is $15,733,656 in federal funds in FFY 2027 and in FFY 2028. The expected non-federal share will be $6,880,560 in FFY 2027 and in FFY 2028.

Item 291 JJ 14: The State Plan is being revised to make supplemental payments through an adjustment to the formula for IME reimbursement, using managed care discharge days, for an acute care hospital chain with a level two trauma center in the Peninsula Emergency Medical Services Region in 2023, upon the execution of affiliation agreements with public entities that are capable of transferring funds to DMAS for purposes of covering the non-federal share of the authorized payments. The level of these additional IME supplemental payments may be up to the amounts supported by the formula applicable to Type One hospitals.

Item 291 JJ 14: The expected increase in annual fee-for-service aggregate expenditures is $29,754,471 in federal funds in FFY 2027 and in FFY 2028. The expected non-federal share will be $10,118,719 in FFY 2027 and in FFY 2028.

Public entities that are capable of transferring funds to DMAS for purposes of covering the non-federal share of the authorized payments related to Item 291 JJ 10, Item 291 JJ 11 a-b, or Item 291 JJ 14 would enter into an interagency agreement with DMAS for this purpose. Public entities are authorized to use general fund dollars to accomplish this transfer. The funds to be transferred must comply with 42 CFR 433.51 and 42 CFR 433.54. As part of the interagency agreements, DMAS shall require the public entities to attest to compliance with applicable Centers for Medicare and Medicaid Services (CMS) criteria. DMAS shall also require any private hospital and related health systems receiving payments to attest to compliance with applicable CMS criteria. In addition, the non-federal share of the agency's administrative costs directly related to administration of the programs, including staff and contractors, shall be funded by participating public entities.

Item 291 JJ 12: The State Plan is being revised to add qualified charitable contributions as a source for the non-federal share of Virginia Tech Carilion School of Medicine enhanced IME reimbursement.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures in FFY 2027 or in FFY 2028.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 768-1680, TDD (800) 343-0634, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of and Comment on Intent to Amend State Plan - Nursing Facility Reimbursement

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 for Long-Term Care (12VAC30-90).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act 42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the DMAS contact listed at the end of this notice.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes. Comments or inquiries may be submitted in writing until September 25, 2026, to the DMAS contact, and such comments are available for review at the same address. Comments may also be submitted in writing on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

In accordance with the 2026 Appropriation Act, DMAS will be making the following changes:

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

In accordance with Item 291BBB, the State Plan is being revised to provide direct and indirect operating rates equal to 25.4% above the calculated price-based rates for qualifying facilities where at least 80% of the resident population have one or more of the following diagnoses: quadriplegia, traumatic brain injury, multiple sclerosis, paraplegia, or cerebral palsy, with at least 90% Medicaid utilization and a case-mix index of 1.15 or higher in fiscal year 2014. This continues reimbursement authorized in Item 306, CCC 7 of Chapter 780 of the 2016 Acts of Assembly, and Item 313, KKKK of Chapter 56 of the 2020 Acts of Assembly, Special Session I.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures in federal fiscal year (FFY) 2027 or FFY 2028.

In accordance with Item 291 LLL 1 b, the State Plan is being revised to increase nursing home and specialized care per diem rates effective until June 30, 2027. DMAS shall distribute the funding as an add-on payment to the per diem rates in effect as of June 30, 2026. This add-on payment shall be effective until June 30, 2027.

The expected increase in annual fee-for-service aggregate expenditures is $4,730,124 in state general funds and $5,069,876 in federal funds in FFY 2027, and there are no expected increases or decreases in annual fee-for-service aggregate expenditures in FFY 2028.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 768-1680, TDD (800) 343-0634, or email meredith.lee@dmas.virginia.gov.

Opportunity for Public Review of and Comment on Intent to Amend State Plan - Rehabilitation Hospital Reimbursement

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 of § 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 DMAS contact listed at the end of this notice.

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 until September 26, 2026, to the DMAS contact, and such comments are available for review at the same address. Comments may also be submitted in writing on the Virginia Regulatory Town Hall public comment forum at https://townhall.virginia.gov/L/generalnotice.cfm.

Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care (12VAC30-70)

In accordance with Item 291 QQQQQ of the 2026 Appropriations Act, the State Plan is being revised to update the reimbursement methodology for rehabilitation hospitals to provide more equitable reimbursement rates for each rehabilitation hospital relative to its total cost of services provided to Medicaid recipients. Any such change shall be budget neutral.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures as a result of these changes in federal fiscal year (FFY) 2027 or FFY 2028.

Contact Information: Meredith Lee, Policy Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0552, fax (804) 768-1680, TDD (800) 343-0634, 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.