



VIRGINIA

REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposed regulation in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety, and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar of Regulations no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his

authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at <https://register.dls.virginia.gov>.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Michael Mullin; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.**

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

PUBLICATION SCHEDULE AND DEADLINES

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

December 2024 through December 2025

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
41:9	November 26, 2024 (Tuesday)	December 16, 2024
41:10	December 11, 2024	December 30, 2024
41:11	December 23, 2024 (Monday)	January 13, 2025
41:12	January 8, 2025	January 27, 2025
41:13	January 22, 2025	February 10, 2025
41:14	February 5, 2025	February 24, 2025
41:15	February 19, 2025	March 10, 2025
41:16	March 5, 2025	March 24, 2025
41:17	March 19, 2025	April 7, 2025
41:18	April 2, 2025	April 21, 2025
41:19	April 16, 2025	May 5, 2025
41:20	April 30, 2025	May 19, 2025
41:21	May 14, 2025	June 2, 2025
41:22	May 28, 2025	June 16, 2025
41:23	June 11, 2025	June 30, 2025
41:24	June 25, 2025	July 14, 2025
41:25	July 9, 2025	July 28, 2025
41:26	July 23, 2025	August 11, 2025
42:1	August 6, 2025	August 25, 2025
42:2	August 20, 2025	September 8, 2025
42:3	September 3, 2025	September 22, 2025
42:4	September 17, 2025	October 6, 2025
42:5	October 1, 2025	October 20, 2025
42:6	October 15, 2025	November 3, 2025
42:7	October 29, 2025	November 17, 2025
42:8	November 10, 2025 (Monday)	December 1, 2025
42:9	November 26, 2025 (Monday)	December 15, 2025
42:10	December 10, 2025 (Tuesday)	December 29, 2025

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Criminal Justice Services Board conducted a periodic review and a small business impact review of **6VAC20-120, Regulations Relating to Criminal History Record Information Use and Security**, and determined that this regulation should be amended. The board is publishing its report of findings dated November 8, 2024, to support this decision.

Although the regulation is still relevant and written in easily understandable language, the Department of Criminal Justice Services plans to continue to work with Virginia State Police (VSP) to develop language to make the process of sealing and expungement more efficient. The department plans to retain the regulation, but the department will be issuing a notice of intended regulatory action (NOIRA) to make necessary amendments.

The department has considered both the need for the regulation as well as the nature of the comment received concerning the regulation as currently written. While the regulation does not overlap or duplicate federal or state law, amendments have not been made in several years, and the department has determined that it is appropriate to continue to work with VSP to make the regulatory language clearer and more concise, as well as make appropriate amendments to align with Chapter 524 of the 2021 Acts of Assembly. The department's decision to retain and amend the regulation does not impact regulations on small businesses or create an economic burden.

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

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 small business impact review: **8VAC20-90, Procedure for Adjusting Grievances; 8VAC20-150, Management of the Student's Scholastic Record in the Public Schools of Virginia; 8VAC20-330, Rules Governing**

Alternative Education; 8VAC20-340, Regulations Governing Driver Education; 8VAC20-390, Rules Governing Division Superintendent of Schools; 8VAC20-410, Regulations Governing Allowable Credit for Teaching Experience; 8VAC20-580, Regulations for the School Breakfast Program; and 8VAC20-760, Regulations Governing the Designation of School Divisions of Innovation. The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these 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 December 2, 2024, and ends December 23, 2024.

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

TITLE 11. GAMING

VIRGINIA LOTTERY 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 small business impact review: **11VAC5-11, Public Participation Guidelines; 11VAC5-20, Administration Regulations; 11VAC5-31, Licensing Regulations; and 11VAC5-41, Lottery Game Regulations.** The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of

Periodic Reviews and Small Business Impact Reviews

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 December 2, 2024, and ends December 23, 2024.

Comments must include the commenter's name and address (physical or email) information 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: Amy Roper, Regulatory Coordinator, Virginia Lottery, 600 East Main Street, First Floor, Richmond, VA 23219, telephone (804) 692-7133, FAX (804) 692-7325, or email aroper@valottery.com.

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



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and small business impact review: **24VAC30-540, Conveyance of Land and Disposal of Improvements**. The review of the regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to the regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins December 2, 2024, and ends December 23, 2024.

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

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

REGULATIONS

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

Symbol Key

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

TITLE 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, 4VAC15-20-130).**

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

Effective Date: January 1, 2025.

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

Summary:

The amendments (i) update the department's "List of Native and Naturalized Fauna of Virginia" incorporated by reference into the regulation; (ii) update the version of the federal Endangered and Threatened Animal Species referenced in the regulation but remove it from the list of documents incorporated by reference into the regulation; and (iii) add "domesticated morphs of red cornsnake" to the definition of "domestic animal."

4VAC15-20-50. Definitions; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal," and "domestic 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 ~~2022~~ 2024 "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 ~~2022~~ 2024 "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

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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 ~~without limitation~~ any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and ~~includes~~ any hybrid of ~~them~~ 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 ~~of them~~ 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 [~~shall~~] (i) [~~shall~~] serve as a permit for possession only, (ii) is not transferable, and (iii) must be renewed every five years.

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 §§ 1531-1543), as amended as of [~~December 28, 2022~~ April 1, 2024 October 10, 2024], and declares all 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 [~~of the department~~] is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List in accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

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

1. Fish:	
Endangered:	
Dace, Clinch	<i>Chrosomus</i> sp. cf. <i>saylori</i>
Dace, Tennessee	<i>Phoxinus tennesseensis</i>
Darter, sharphead	<i>Etheostoma acuticeps</i>
Darter, variegate	<i>Etheostoma variatum</i>
Sunfish, blackbanded	<i>Enneacanthus chaetodon</i>
Threatened:	
Darter, Carolina	<i>Etheostoma collis</i>
Darter, golden	<i>Etheostoma denoncourti</i>
Darter, greenfin	<i>Etheostoma chlorobranchium</i>
Darter, western sand	<i>Ammocrypta clara</i>
Madtom, orangefin	<i>Noturus gilberti</i>
Paddlefish	<i>Polyodon spathula</i>
Shiner, emerald	<i>Notropis atherinoides</i>
Shiner, steelcolor	<i>Cyprinella whipplei</i>
Shiner, whitemouth	<i>Notropis alborus</i>
2. Amphibians:	
Endangered:	
Salamander, eastern tiger	<i>Ambystoma tigrinum</i>
Threatened:	
Salamander, Mabee's	<i>Ambystoma mabeei</i>

3. Reptiles:	
Endangered:	
Rattlesnake, canebrake (Coastal Plain population of timber rattlesnake)	<i>Crotalus horridus</i>
Turtle, bog	<i>Glyptemys muhlenbergii</i>
Turtle, eastern chicken	<i>Deirochelys reticularia</i>
Threatened:	
Lizard, eastern glass	<i>Ophisaurus ventralis</i>
Turtle, wood	<i>Glyptemys insculpta</i>
4. Birds:	
Endangered:	
Plover, Wilson's	<i>Charadrius wilsonia</i>
Rail, black	<i>Laterallus jamaicensis</i>
Woodpecker, red-cockaded	<i>Dryobates borealis</i>
Wren, Bewick's	<i>Thryomanes bewickii</i>
Threatened:	
Falcon, peregrine	<i>Falco peregrinus</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow, Bachman's	<i>Aimophila aestivalis</i>
Sparrow, Henslow's	<i>Ammodramus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>
5. Mammals:	
Endangered:	
Bat, Rafinesque's eastern big-eared	<i>Corynorhinus rafinesquii macrotis</i>

Bat, little brown	<i>Myotis lucifugus</i>
Bat, tri-colored	<i>Perimyotis subflavus</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, American water	<i>Sorex palustris</i>
Vole, rock	<i>Microtus chrotorrhinus</i>
6. Mollusks:	
Endangered:	
Coil, rubble	<i>Helicodiscus lirellus</i>
Coil, shaggy	<i>Helicodiscus diadema</i>
Deertoe	<i>Truncilla truncata</i>
Elephantear	<i>Elliptio crassidens</i>
Elimia, spider	<i>Elimia arachnoidea</i>
Floater, brook	<i>Alasmidonta varicosa</i>
Ghostsnail, thankless	<i>Holsingeria unthansensis</i>
Heelsplitter, Tennessee	<i>Lasmigona holstonia</i>
Lilliput, purple	<i>Toxolasma lividus</i>
Mussel, slippershell	<i>Alasmidonta viridis</i>
Pigtoe, Ohio	<i>Pleurobema cordatum</i>
Pigtoe, pyramid	<i>Pleurobema rubrum</i>
Springsnail, Appalachian	<i>Fontigens bottimeri</i>
Springsnail (no common name)	<i>Fontigens morrisoni</i>
Supercoil, spirit	<i>Paravitrea hera</i>
Threatened:	
Floater, green	<i>Lasmigona subviridis</i>

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Papershell, fragile	Leptodea fragilis
Pimpleback	Quadrula pustulosa
Pistolgrip	Tritogonia verrucosa
Riversnail, spiny	Iofluvialis
Sandshell, black	Ligumia recta
Supercoil, brown	Paravitrea septadens

7. Arthropods:	
Threatened:	
Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

C. It shall be unlawful to take, transport, process, sell, or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife except as authorized by law.

D. The incidental take of certain species may occur in certain circumstances and with the implementation of certain conservation practices as described in this subsection:

Species	Location	Allowable Circumstances	Required Conservation Measures	Expected Incidental Take
Little brown bat, Tri-colored bat	Statewide	Human health risk – need for removal of individual animals from human-habited structures.	Between May 15 and August 31, no exclusion of bats from maternity colonies, except for human health concerns. Department-permitted nuisance wildlife control operator with department-recognized certification in techniques associated with removal of bats. Use of exclusion devices that allow individual animals to escape. Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.	Little to no direct lethal taking expected.
		Public safety or property damage risk – need for tree removal, application of prescribed fire, or other land management actions affecting known roosts; removal of animals from known roosts.	Hibernacula: no tree removal, use of prescribed fire, or other land management action within a 250-foot radius buffer area from December 1 through April 30. Between September 1 and November 30, increase the buffer to a 1/4-mile radius with the following conditions: for timber harvests greater than 20 acres, retain snags and wolf trees (if not presenting public safety or property risk) and small tree groups up to 15 trees of 3-inch diameter at breast height (dbh) or greater, one tree group per 20 acres. Otherwise, document the need (public safety, property damage risk) for tree removal during this period and verify that no known roost trees exist in the buffer area. Tree removal and prescribed fire are permitted outside of these dates. Known roost trees: no tree removal, use of prescribed fire, or other land management action within a 150-foot radius buffer area from June 1 through July 31, if possible. Otherwise, document public safety or property damage risk.	Little to no direct lethal taking expected.

			<p>Department-permitted nuisance wildlife control operator with department-recognized certification in techniques associated with removal of bats.</p> <p>Use of exclusion devices that allow individual animals to escape.</p> <p>Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.</p>	
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DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

List of Native and Naturalized Fauna of Virginia, April 2022, Virginia Department of Wildlife Resources

~~Federal Endangered and Threatened Animal Species as of December 8, 2022~~

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

~~[Federal Endangered and Threatened Animal Species as of April 1, 2024]~~

VA.R. Doc. No. R24-7956; Filed November 12, 2024, 7:11 p.m.

Action Withdrawn

Title of Regulation: **4VAC15-40. Game: In General (adding 4VAC15-40-310).**

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

The Board of Wildlife Resources has WITHDRAWN the regulatory action for **4VAC15-40, Game: In General**, which was published as a Proposed Action in [40:21 VA.R. 1782-1783 June 3, 2024](#). The purpose of the proposed action was to require that deer and bear hunters use global positioning system (GPS) tracking with basic capabilities on any dog actively engaged in a hunt. This action was withdrawn by the board on November 2, 2024, because public comment was strongly opposed to its implementation, and the board voted to not adopt the proposed regulation.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Villa Park 3, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

VA.R. Doc. No. R24-7844; Filed November 2, 2024, 10:19 a.m.

Action Withdrawn

Title of Regulation: **4VAC15-40. Game: In General (adding 4VAC15-40-320).**

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

The Board of Wildlife Resources has WITHDRAWN the regulatory action for **4VAC15-40, Game: In General**, which was published as a Proposed Action in [40:21 VA.R. 1783 June](#)

[3, 2024](#). The purpose of the proposed action was to require hunters using dogs to hunt deer or bear to make reasonable efforts to prevent the dogs from entering a landowner's property and to provide examples of reasonable efforts, when reasonable efforts may be discontinued, and when reasonable efforts are unnecessary. This action was withdrawn by the board on November 2, 2024, because public comment was strongly opposed to its implementation, and the board voted to not adopt the proposed regulation.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Villa Park 3, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

VA.R. Doc. No. R24-7845; Filed November 2, 2024, 10:20 a.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).**

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

Effective Date: January 1, 2025.

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

Summary:

The amendments (i) remove two limits on largemouth and smallmouth bass; (ii) move authority to set limits for coastal striped bass caught in Crane Lake in Suffolk to Virginia Marine Resources Commission and disallow possession of coastal striped bass in waters of Meherrin, Nottoway, Blackwater, North Landing, Northwest, and Back Bay; (iii) update limits on chain pickerel, northern pike, and muskellunge; (iv) update limits on rock bass and Roanoke bass to add Blackwater (Chowan Drainage) to the geographic exceptions; (v) and remove bullheads for possession.

Regulations

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

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

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

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

Regulations

			North Fork Holston River - Rt. 91 bridge upstream of Saltville, VA downstream to the VA - TN state line	No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches
			Potomac River - Virginia tidal tributaries above Rt. 301 bridge	No largemouth or smallmouth bass less than 15 inches from March 1 through June 15
			Roanoke (Staunton) River - and its tributaries below Difficult Creek, Charlotte County	Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches
			Shenandoah River, South Fork Shenandoah River, North Fork Shenandoah River	No largemouth or smallmouth bass 11 to 14 inches
			Staunton River -	
			Leesville Dam (Campbell County) downstream to the mouth of Difficult Creek, Charlotte County	No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches
Alabama bass, spotted bass		No statewide daily limit No statewide length limit		
striped bass	landlocked striped bass and landlocked striped bass - white bass hybrids	4 per day in the aggregate No fish less than 20 inches	Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River and its tributaries to Leesville Dam and the Dan River and its tributaries to Union Street Dam (Danville)	October 1 - May 31: 2 per day in the aggregate; no striped bass or hybrid striped bass less than 20 inches or greater than 26 inches June 1 - September 30: 4 per day in the aggregate; no length limit
			Claytor Lake and its tributaries	September 16 – June 30: 2 per day in the aggregate; no striped bass

				or hybrid bass less than 20 inches July 1 – September 15: 4 per day in the aggregate; no length limit
			Smith Mountain Lake and its tributaries, including the Roanoke River upstream to Niagara Dam	2 per day in the aggregate November 1 - May 31: No striped bass 30 to 40 inches June 1 - October 31: No length limit
			Lake Gaston	4 per day in the aggregate October 1 - May 31: No striped bass or hybrid striped bass less than 20 inches June 1 - September 30: No length limit
	anadromous (coastal) striped bass above the fall line in all coastal rivers of the Chesapeake Bay and Crane Lake (City of Suffolk)	Creel and length limits shall be set by the Virginia Marine Resources Commission for recreational fishing in tidal waters		
	anadromous (coastal) in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay	2 per day No striped bass less than 18 inches <u>No possession</u>		
white bass		5 per day No statewide length limits	Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River and its tributaries to Leesville Dam and the Dan River and its tributaries to Union Street Dam (Danville)	10 per day; no white bass less than 14 inches
			Lake Gaston	10 per day; no white bass less than 14 inches

Regulations

walleye, saugeye		5 per day in the aggregate No walleye or saugeye less than 18 inches	Claytor Lake and the New River upstream of Claytor Lake Dam to Fries Dam in Grayson County	2 walleye per day; no walleye 19 to 28 inches
sauger		2 per day No statewide length limits		
yellow perch		No statewide daily limit No statewide length limits	Lake Moomaw	10 per day
			Below the fall line in all coastal rivers of the Chesapeake Bay	No yellow perch less than 9 inches; no daily limit
chain pickerel <u>and</u> <u>northern pike</u>		5 per day No statewide length limits	Gaston and Buggs Island (Kerr) Reservoirs	No daily limit
northern pike		2 per day No pike less than 20 inches		
muskellunge		2 <u>1</u> per day No muskellunge less than <u>30</u> <u>40</u> inches	New River - Fields Dam (Grayson County) downstream to Claytor Dam, including Claytor Lake	1 per day; no muskellunge less than 42 inches
			New River - Claytor Dam downstream to the VA - WV state line	1 per day June 1 - last day of February: No muskellunge 40 to 48 inches March 1 - May 31: No muskellunge less than 48 inches
bluegill (bream) and other sunfish excluding crappie, rock bass (redeye) and Roanoke bass		50 per day in the aggregate No statewide length limits	Gaston and Buggs Island (Kerr) Reservoirs, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit

Regulations

crappie (black or white)		25 per day in the aggregate No statewide length limits	Lake Gaston and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
			Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County	No crappie less than 9 inches
			Briery Creek and Sandy River Reservoirs	No crappie less than 9 inches
			Flannagan and South Holston Reservoirs	No crappie less than 10 inches
rock bass (redeye)		25 per day; in the aggregate with Roanoke bass No statewide length limits	Gaston and Buggs Island (Kerr) Reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
			Nottoway, Meherrin, Blackwater (Franklin County), <u>Blackwater (Chowan Drainage)</u> , Falling, and Smith Rivers and their tributaries	5 per day in the aggregate with Roanoke bass; no rock bass less than 8 inches
Roanoke bass		25 per day in the aggregate with rock bass No statewide length limits	Nottoway, Meherrin, Blackwater (Franklin County), <u>Blackwater (Chowan Drainage)</u> , Falling, and Smith Rivers and their tributaries	5 per day in the aggregate with rock bass; no Roanoke bass less than 8 inches

Regulations

trout	See 4VAC15-330. Fish: Trout Fishing.			
catfish	channel, white, and flathead catfish	20 per day; No length limits	All rivers below the fall line	No daily limit
	blue catfish	20 per day; No statewide length limits	Lake Gaston	No daily limit, except only 1 blue catfish per day longer than 32 inches
			Kerr Reservoir, including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County	20 per day, except only 1 blue catfish per day longer than 32 inches
			James River and its tributaries below the fall line, Rappahannock River and its tributaries below the fall line, and York River and its tributaries (including the Pamunkey River and Mattaponi River) below the fall line	No daily limit, except only 1 blue catfish per day longer than 32 inches
			All rivers below the fall line other than the James River and its tributaries, Rappahannock River and its tributaries, and the York River and its tributaries	No daily limit
yellow, brown, and black bullheads	No daily limit; No length limits			
hickory shad	Above and below the fall line in all coastal rivers of the Chesapeake Bay	Creel and length limits shall be the same as those set by the Virginia Marine Resources Commission in tidal rivers		
	Meherrin River below Emporia Dam Nottoway River, Blackwater River (Chowan Drainage), North	10 per day No length limits		

	Landing and Northwest Rivers, and their tributaries plus Back Bay			
American shad		No possession		
anadromous (coastal) alewife and blueback herring	Above and below the fall line in all coastal rivers of the Chesapeake Bay	Creel and length limits shall be the same as those set by the Virginia Marine Resources Commission for these species in tidal rivers		
	Meherrin River, Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest Rivers, and their tributaries plus Back Bay	No possession		
red drum	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	1 per day No drum less than 18 inches or greater than 27 inches		
spotted sea trout (speckled trout)	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	4 per day No sea trout less than 14 inches		
grey trout (weakfish)	Back Bay and tributaries including Lake Tecumseh and North Landing River and its tributaries	1 per day No grey trout less than 12 inches		
southern flounder	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	6 per day No flounder less than 15 inches		

Regulations

northern snakehead		Anglers may possess snakeheads taken from Virginia waters if they immediately kill the fish and notify the headquarters or a regional office of the department; notification may be made by telephoning (804) 367-2925 No statewide daily limit No statewide length limits		
longnose gar		July 1 to April 14: 5 per day April 15 to June 30: 1 per day No statewide length limits		
bowfin		July 1 to April 14: 5 per day April 15 to June 30: 1 per day No statewide length limits		
American eel		25 per day No eel less than 9 inches	Back Bay and North Landing River	No possession limit for those individuals possessing a permit obtained under 4VAC15-340-80
other native or naturalized nongame fish	See 4VAC15-360-10. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use.			
endangered or threatened fish	See 4VAC15-20-130. Definitions and Miscellaneous: In General. Endangered and threatened species; adoption of federal list; additional species enumerated.			
nonnative (exotic) fish	See 4VAC15-30-40. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals. Importation requirements, possession and sale of nonnative (exotic) animals.			

VA.R. Doc. No. R24-7952; Filed November 12, 2024, 7:12 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, 4VAC15-330-160).**

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

Effective Date: January 1, 2025.

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

Summary:

The amendments (i) add Russell and Washington Counties to the list of areas where it is lawful year-round to fish for trout using only artificial lures with single hooks in Big Tumbling Creek and (ii) reduce the stretch of Chestnut Creek where it is lawful to fish from October 1 through May 31 using only artificial lures.

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 ~~at its~~ 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 County, 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 Creek in Alleghany County from the Clifton Forge Dam downstream to a sign at the Forest Service boundary above the C & O Dam.

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.

4VAC15-330-160. Special provisions applicable to certain portions of Accotink Creek, Back Creek, Big Moccasin Creek, Chestnut Creek, Hardy Creek, Holliday Creek, Holmes Run, Indian Creek, North River, Passage Creek, Pedlar River, Piney River, North Fork of Pound and Pound rivers, Middle Fork of Powell River, and Roanoke River.

It shall be lawful to fish from October 1 through May 31, both dates inclusive, using only artificial lures in Accotink Creek (Fairfax County) from King Arthur Road downstream 3.1 miles to Route 620 (Braddock Road), in Back Creek (Bath County) from the Route 600 bridge just below the Virginia Power Back Creek Dam downstream 1.5 miles to the Route 600 bridge at the lower boundary of the Virginia Power Recreational Area, in Big Moccasin Creek (Scott County) from the Virginia Department of Transportation foot bridge downstream approximately 1.9 miles to the Wadlow Gap Bridge, in Chestnut Creek (Carroll County) from the U.S. Route 58 bridge downstream ~~4.4~~ approximately 4.2 miles to the ~~confluence with~~ downstream boundary of the New River

Regulations

Trail State Park Cliffview Campground, in Hardy Creek (Lee County) from the Virginia Department of Transportation swinging bridge just upstream of the Route 658 ford downstream to the Route 661 bridge, in Holliday Creek (Appomattox/Buckingham Counties) from the Route 640 crossing downstream 2.8 miles to a sign posted at the headwaters of Holliday Lake, in Holmes Run (Fairfax County) from the Lake Barcroft Dam downstream 1.2 miles to a sign posted at the Alexandria City line, in Indian Creek within the boundaries of Wilderness Road State Park (Lee County), in the North River (Augusta County) from the base of Elkhorn Dam downstream 1.5 miles to a sign posted at the head of Staunton City Reservoir, in Passage Creek (Warren County) from the lower boundary of the Front Royal State Hatchery upstream 0.9 miles to the Shenandoah/Warren County line, in the Pedlar River (Amherst County) from the City of Lynchburg/George Washington National Forest boundary line (below Lynchburg Reservoir) downstream 2.7 miles to the boundary line of the George Washington National Forest, in the Piney River (Nelson County) in that portion of stream from the Piney River Trailhead (Route 151) to the Rose Mill Trailhead (Route 674) adjacent to the Blue Ridge Railway Trail, in North Fork of Pound and Pound rivers from the base of North Fork of Pound Dam downstream to the confluence with Indian Creek, in the Middle Fork of Powell River (Wise County) from the old train trestle at the downstream boundary of Appalachia extending approximately 1.9 miles downstream to the trestle just upstream of the Town of Big Stone Gap, in the Roanoke River (Roanoke County) from the Route 760 bridge (Diuguids Lane) upstream 1.0 miles to a sign posted at the upper end of Green Hill Park (Roanoke County), and in the Roanoke River (City of Salem) from the Route 419 bridge upstream 2.2 miles to the Colorado Street bridge. From October 1 through May 31, all trout caught in these waters must be immediately returned to the water unharmed, and it shall be unlawful for any person to have in possession any bait or trout. During the period of June 1 through September 30, the above restrictions will not apply.

VA.R. Doc. No. R24-7948; Filed November 12, 2024, 7:12 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, 2025.

Agency Contact: Aaron Proctor, Policy Manager, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400,

Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Summary:

The amendments remove bullheads from the list of species that may be taken for private use in unlimited numbers from inland waters statewide.

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 ~~the sections of 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, ~~yellow bullhead, brown bullhead, black bullhead, flat bullhead, snail bullhead~~, 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), 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, unless ~~said~~ the person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders 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 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. 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 fluviatilis*) 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~~ 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. R24-7951; Filed November 12, 2024, 7:13 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: 4VAC15-380. **Watercraft: Motorboat Numbering (amending 4VAC15-380-30, 4VAC15-380-40).**

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

Effective Date: January 1, 2025.

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

Summary:

The amendments (i) align the Department of Wildlife Resources regulation regarding motorboat numbering with the Code of Federal Regulations and (ii) codify current procedure for department identification of rental boats.

4VAC15-380-30. Numbering pattern.

The motorboat number assigned shall consist of the symbol "VA" identifying the Commonwealth followed by not more than four ~~arabic~~ Arabic numerals and two capital letters, in sequence, separated by a hyphen or ~~equivalent~~ letter space that is greater than "I" or "1" and is in accordance with the serial

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numerically and alphabetically; e.g., for example, "VA 1234 BB" or "VA-1234-BB." Since the letters "I," "O," and "Q" may be mistaken for ~~arabic~~ Arabic numbers, all letter sequences using "I," "O," and "Q" shall be omitted.

Any vessel used as a rental or livery or leased as specified in the Application for Watercraft Certificate of Title and Certificate of Number (Registration) shall be registered with the suffix RB, BR, or LB or a suffix designated by the department. Only owners of vessels specified with the primary operation as rent, lease, or livery on the Application for Watercraft Certificate of Title and Certificate of Number (Registration) are considered by the department to be rental or leased boat companies. Only vessels specified with the primary operation as rent, lease, or livery are considered rental, leased, or livery motorboats.

4VAC15-380-40. Display of numbers.

The numbers assigned for a motorboat shall be painted on or attached to each side of the forward half of the vessel to which the numbers are issued in such a position as to provide clear legibility for identification; ~~provided,~~ that on vessels so configured that a number on the hull or superstructure would not be easily visible or the numbers would not remain securely attached, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel. The numbers shall read from left to right and shall be in block characters of good proportion ~~not less than~~ and three inches in height. The numbers shall be a color ~~which that~~ will contrast with the color of the background and so maintained as to be clearly visible and legible; ~~i.e., that is,~~ dark numbers on a light background or light numbers on a dark background.

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

FORMS (4VAC15-380)

~~Application for duplicate validation decals, #DVD-7-93-IM.~~

~~Application for change of motor, MCH-9/91-IM.~~

~~Notification of change in status of a numbered vessel.~~

~~Affidavit of authority to transfer registration when registered owner is deceased.~~

~~Application for Duplicate Certificate of Boat Number, BC/DCT 2m (eff. 9/93).~~

[Application for Watercraft Certificate of Title and Certificate of Number \(rev. 8/2023\)](#)

[Application for Duplicate Registration, Decal, Title, BRT-011 \(rev. 12/2020\)](#)

[Application for Change of Motor, BRT-012 \(rev. 2/2023\)](#)

[Affidavit of Authority to Transfer Registration when Registered Owner Is Deceased, BRT-003 \(rev. 12/2020\)](#)

VA.R. Doc. No. R24-7953; Filed November 12, 2024, 7:13 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, 4VAC15-390-85, 4VAC15-390-140).**

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

Effective Date: January 1, 2025.

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

Summary:

The amendments (i) correct the citation to the Inland Navigation Rules found at 33 CFR Parts 83 through 88, as established by the U.S. Coast Guard and (ii) clarify language prohibiting operation of a motorboat with passengers riding or sitting on the bow, gunwales, or transom or on the decking over the bow of the vessel without adequate guards or railing.

4VAC15-390-10. Applicability.

The following sections in this chapter apply to the operation of "vessels," as defined in § 29.1-700 of the Code of Virginia, on all waters within the Commonwealth. Vessels complying with the Inland Navigation Rules, 33 CFR Parts 83, 84, ~~and~~ 86, 87, and 88, as established by the U.S. Coast Guard, are considered to be in compliance with the requirements of this chapter.

4VAC15-390-85. Operators to give right-of-way and reduce speed.

Every motorboat, when approaching or passing within 200 feet of any law-enforcement vessel or emergency services vessel that is displaying flashing blue, red, or public safety lights, as defined in 33 CFR Part 88, shall slow to no wake speed so that the effect of the wake does not disturb the activities of law-enforcement personnel or emergency services personnel. Where the operator of a motorboat fails to comply

with the provisions of this section and such failure endangers the life or limb of any person or endangers or damages vessels, the operator shall be guilty of a Class 3 misdemeanor. Upon conviction, the operator shall additionally be required to complete and pass a National Association of State Boating Law Administrators approved safe boating course as required in § 29.1-746 of the Code of Virginia.

4VAC15-390-140. Riding on decks and gunwales.

It shall be unlawful for the operator of a motorboat to ~~allow operate a vessel while~~ any person ~~to ride or sit~~ is riding or sitting on the bow, gunwales, or transom; or on the decking over the bow of the vessel while under power unless such motorboat is provided with adequate guards or railing to prevent passengers from falls overboard. Nothing in this section shall be construed to mean that passengers or other persons aboard a watercraft cannot occupy these areas of the vessel to moor or anchor the watercraft, to cast off, or for any other necessary purpose. Any person who violates any provision of this section shall be guilty of a Class 1 misdemeanor as provided by § 29.1-738 of the Code of Virginia.

VA.R. Doc. No. R24-7954; Filed November 12, 2024, 7:14 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: **4VAC15-420. Watercraft: Navigation Lights and Shapes (amending 4VAC15-420-10).**

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

Effective Date: January 1, 2025.

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

Summary:

The amendment corrects the citation to the Inland Navigation Rules found at 33 CFR Parts 83 through 88 as established by the U.S. Coast Guard.

4VAC15-420-10. Application.

The navigation lights requirements in this chapter shall be complied with in all weather and from sunset to sunrise on the public waters of the Commonwealth. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in this chapter or do not impair their visibility or distinctive character, or interfere with the

keeping of a proper lookout. The lights prescribed by this chapter shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary. The lights specified in this chapter shall comply with the Navigation Rules found in 33 CFR Parts 83, 84, ~~and~~ 86, 87, and 88 as established by the U.S. Coast Guard.

VA.R. Doc. No. R24-7955; Filed November 12, 2024, 7:14 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Proposed Regulation

Title of Regulation: **6VAC20-20. Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers (amending 6VAC20-20-21, 6VAC20-20-40).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: December 20, 2024.

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

Basis: Section 9.1-102 of the Code of Virginia gives the Criminal Justice Services Board authority to adopt regulations to require the submission of reports and information by law-enforcement officers in the Commonwealth.

Purpose: This action directly impacts the health, safety, and welfare of the public and the Commonwealth because it affects the training of new law-enforcement officers. Increased training, especially in topics that are legislatively mandated, benefits both the police and deputies receiving the information at the academies across Virginia, but also the public at large.

Substance: Substantial changes and improvements will be made and applied to the performance outcomes, training objectives, testing criteria, and lesson plan guides in each individual category of training. The proposed amendments include enhanced training in community policing, verbal de-escalation, implicit bias, duty to intervene, conflict resolution skills with a concentration on individuals with mental illness, historical events that have influenced citizen and police relationships, and the establishment of a new category of training, Officer Wellness. The proposed amendments improve and update language, in addition to amending the existing number of field training hours required for new law-

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enforcement officers in Virginia, as recommended by the Law-Enforcement Curriculum Review Committee and the subject matter experts that the department has continued to work with on this project. Additionally, as recommended by law-enforcement personnel throughout the state in multiple meetings conducted by the department soliciting input, this action will also increase the time required for the completion of training from 12 months to 18 months from the law-enforcement officer's date of hire, benefiting all agencies and departments throughout the Commonwealth.

Issues: There are no disadvantages to this action that affect individual private citizens, businesses, other agencies within the Commonwealth, or government officials. Advantages of the proposed amendments include improved, more efficient training for new law-enforcement officers, regardless of what agency has hired them or which criminal justice training academy the law-enforcement officers report or are assigned to. There are no disadvantages to the public for this action. In addition to the enhanced training, insertion of legislatively mandated topics into the training standards themselves ensures that all academies across Virginia are utilizing the same standards as a minimum required starting point. By replacing the DIBR with the most current training standards for new law-enforcement officers, the public will experience enhanced transparency and have an easier time locating how police and sheriff's deputies are trained in the Commonwealth. For academies, there will now be more cohesiveness in what is being taught and tested on.

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 (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation. The Criminal Justice Services Board (board) proposes to (i) add the basic training standards to the document incorporated by reference, (ii) add a ninth category of basic training (Wellness), (iii) make other amendments to the basic training standards, (iv) increase the minimum number of hours of field training from 100 to 240, and (v) extend the timeframe within which newly hired law-enforcement (LE) officers must complete all certification requirements from 12 months to 18 months.

Background. All newly hired LE officers must comply with the law-enforcement certification requirements within the prescribed time frame, which is currently 12 months from the date of hire or appointment as a law-enforcement officer.² LE officers become certified upon meeting all compulsory minimum training standards and other requirements that include documented completion of all performance outcomes, the law-enforcement certification exam, and field training.³

There are two types of training under the regulation: basic training and field training. Basic training currently includes the

following eight training categories: Professionalism, Legal, Communication, Patrol, Investigations, Defensive tactics and use of force, Weapons, and Driver training. Each of the eight basic training categories has certain performance outcomes, training objectives, testing criteria, and lesson plan guides that make up the basic training standards. The categories are in the regulation, but the standards are not. Instead, they are listed on the Department of Criminal Justice Services (DCJS) website.⁴ The regulation does specify that the basic training take place at a certified criminal justice training academy, which includes receiving a minimum of 480 hours of department-approved training in the eight basic training categories.

In addition to the minimum of 480 hours of basic training, the current regulation also requires successful completion of a minimum of 100 hours of approved training in the category of field training by meeting or exceeding the field training performance outcomes identified in the Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes.⁵ The Field Training and On the Job Training Performance Outcomes document is included in the regulation as a document incorporated by reference. The online version of the regulation includes a link to the document. The field training is conducted by the agencies that employ the LE officers.

Estimated Benefits and Costs. Adding the basic training standards to the document incorporated by reference would be beneficial for readers of the regulation who are not aware of where they can find the standards elsewhere. There is no introduced cost from including the standards in the document incorporated by reference. The proposed new basic training category, Wellness, includes physical fitness standards as well as information on officer mental health and well-being.⁶ According to DCJS, most academies are already teaching the components of Wellness. To the extent that some are not, if done well, adding instruction on physical fitness and especially mental health and well-being could be beneficial for LE officers, particularly since it is a high-stress occupation. DCJS does not believe that any of the academies would need to hire additional or different staff to teach the components of Wellness. Those academies that are not already teaching Wellness would still require additional staff time if they do not reduce time spent on other subjects.

In addition to the new basic training category, Wellness, the board also proposes to amend the basic training standards to include increased training in community policing, verbal de-escalation, implicit bias, duty to intervene, conflict resolution skills with a concentration on individuals with mental illness, and historical events that have influenced citizen and police relationships.⁷ DCJS states that most of these topics are already being taught at all academies and that no topics are being eliminated. To the extent that some academies may not be teaching all the above topics, additional staff time would be required if they do not reduce time spent on other subjects.

The board does not believe that 100 hours of field training is adequate for a new officer to become acclimated with the job. DCJS surveyed numerous agencies across the Commonwealth and found that most agencies are already providing well above 240 hours of field training currently. The proposal to increase the minimum number of hours of field training to 240 would cause those agencies that are currently providing fewer hours of training to increase the amount of field training they provide. Going by the board's judgment that at least 240 hours are needed for LE officers to be prepared to perform the job competently, this proposed amendment should be beneficial.

The current section 6VAC 20-20-40 of the regulation states in part that:

Law-enforcement officers who do not satisfactorily complete compulsory minimum training standards, field training, and other requirements within 12 months of hire or appointment as a law-enforcement officer, or who do not receive an extension of the time limit for completion of the requirements, shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

Code of Virginia § 9.1-115 states in part that:

Every person required to comply with the training standards adopted by the Board, excluding private security services business personnel, who fails to comply with the standards within the time limits established by the regulations adopted by the Board shall forfeit his office, upon receipt of notice. Such forfeiture shall create a vacancy in the office and all pay and allowances shall cease.

Thus, under the current regulation, LE officers who fail to satisfactorily complete all certification requirements within 12 months of being hired and do not receive an extension lose their job. The most common reasons that extensions are granted are military deployments and medical issues. The regulation also states that the director shall not grant an extension for (i) failing to pass compulsory minimum training standards and requirements within specified time limits or (ii) failing the certification examination.

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

Businesses and Other Entities Affected. The proposed amendments affect the 39 certified criminal justice training academies, their staff, newly hired LE officers, and their employing agencies. According to DCJS, basic training was successfully completed at the training academies by 1,164 LE officers in 2020, 1,675 LE officers in 2021, and 1,892 LE officers in 2022.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, in addition to benefits, costs are introduced in the form of required additional training time for some certified criminal justice training academies and for some employing agencies, as well as allowing individuals who are incapable of demonstrating the knowledge and skills that are necessary for competent law enforcement to remain employed as a law-enforcement officer for six additional months. Thus, an adverse impact is indicated.

Small Businesses⁹ Affected.¹⁰ The proposed amendments do not appear to adversely affect small businesses.

Localities¹¹ Affected.¹² The localities that employ LE officers and provide fewer than 240 hours of field training would be particularly affected by encountering the cost of providing additional hours of training.

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

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

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

² The timeframe is found in 6VAC 20-20-40 (A): <https://law.lis.virginia.gov/admincode/title6/agency20/chapter20/section40/>.

³ See 6VAC 20-20-21 (C): <https://law.lis.virginia.gov/admincode/title6/agency20/chapter20/section21/>.

⁴ See <https://www.dcjs.virginia.gov/law-enforcement/certification-process-and-mandated-service-requirements-le-officer>.

⁵ See <https://ris.dls.virginia.gov/uploads/6VAC20/DIBR/dff6a005427~3g.pdf>.

⁶ Source: DCJS. See https://townhall.virginia.gov/l/GetFile.cfm?File=51\5665\9534\AgencyStatement_DCJS_9534_v1.pdf.

⁷ Ibid.

⁸ Pursuant to Code § 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.

⁹ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as a business entity, including its affiliates, that (i) is independently owned and

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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, Code § 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 Code § 2.2-4007.1, 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 Criminal Justice Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments (i) update the Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Performance Outcomes document, which contains the Virginia Department of Criminal Justice Services detailed requirements for training academy programs, incorporated by reference into Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers (6VAC20-20) and (ii) increase the timeframe for completion of training to 18 months from the date of hire or appointment as a law-enforcement officer.

Changes to the requirements for training academy programs are being proposed for performance outcomes, training objectives, testing criteria, and lesson plan guides in each individual category of training in the Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Performance Outcomes draft document. These changes and improvements include enhanced training in community policing, verbal de-escalation, implicit bias, duty to intervene, conflict resolution skills with a concentration on individuals with mental illness, historical events that have influenced citizen and police relationships, and the establishment of a new category of training, Officer Wellness. Other proposed changes improve and update language, in addition to amending the existing number of field training hours required for new law-enforcement officers in Virginia, as recommended by the Law-Enforcement Curriculum Review Committee and subject matter experts and approved by the Criminal Justice Services Board.

6VAC20-20-21. Compulsory minimum training standards and requirements.

A. Pursuant to the provisions of subdivision 2 of § 9.1-102 of the Code of Virginia, the department, under the direction of the board, establishes the compulsory minimum training standards for full-time and part-time law-enforcement officers.

B. An individual hired as a law-enforcement officer as defined in § 9.1-101 of the Code of Virginia shall comply with the following law-enforcement certification requirements:

1. Successfully complete law-enforcement basic training at a certified criminal justice training academy, which includes receiving a minimum of 480 hours of ~~department approved~~ department-approved training by meeting or exceeding the performance outcomes identified in the Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Performance Outcomes, draft dated November 1, 2024, hereby incorporated by reference, in the following categories:

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

2. Successfully complete a minimum of ~~400~~ 240 hours of approved training in the category of Field Training by meeting or exceeding the field training performance outcomes identified in the Virginia Department of Criminal Justice Services ~~Field Training and On the Job Training Compulsory Minimum Training Standards and Performance Outcomes,~~ draft dated November 1, 2024.

C. Law-enforcement officers become certified upon meeting all compulsory minimum training standards and other requirements that include documented completion of all performance outcomes, the ~~law-enforcement~~ law-enforcement certification exam, and field training.

6VAC20-20-40. Time requirement for completion of training.

A. Law-enforcement officers required to comply with the requirements of 6VAC20-20-21 shall satisfactorily complete the requirements within ~~12~~ 18 months of the date of hire or appointment as a law-enforcement officer.

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

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

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

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

E. The director shall not grant an extension for:

1. Failing to pass compulsory minimum training standards and requirements within specified time limits.
2. Failing the certification examination.

F. The agency administrator may request an extension from the director or the director's designee.

1. The request shall be in writing and include written documentation articulating the reason the individual is unable to complete the required training within the specified time limits.
2. The request shall be submitted to the department before the expiration of the specified time limits.

G. Law-enforcement officers who do not satisfactorily complete compulsory minimum training standards, field training, and other requirements within ~~12~~ 18 months of hire or appointment as a law-enforcement officer, or who do not receive an extension of the time limit for completion of the requirements, shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

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

DOCUMENTS INCORPORATED BY REFERENCE
(6VAC20-20)

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

[Virginia Department of Criminal Justice Services Compulsory Minimum Training Standards and Performance Outcomes, Virginia Department of Criminal Justice Services \(rev. 11/2024\)](#)

VA.R. Doc. No. R21-6607; Filed October 1, 2024, 1:21 p.m.



TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Fast-Track Regulation

Title of Regulation: 9VAC25-260. Water Quality Standards (amending 9VAC25-260-185).

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 1, 2025.

Effective Date: January 16, 2025.

Agency Contact: Tish Robertson, Water Quality and Monitoring Scientist, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1295, or email tish.robertson@deq.virginia.gov.

Basis: 40 CFR 131 authorizes requirements and procedures for developing, reviewing, revising, and approving water quality standards by the states as authorized by § 303(c) of the Clean Water Act. 40 CFR 131 specifically requires the states to adopt criteria to protect designated uses. Section 62.1-44.2 of the Code of Virginia establishes requirements for protection and restoration of the quality of state waters, safeguarding clean waters from pollution, prevention and reduction of pollution, and promotion of water conservation. Section 62.1-44.15 of the Code of Virginia requires the State Water Control Board to establish standards of quality consistent with its purpose and to modify, amend, or cancel any such standards or policies.

Purpose: Department of Environmental Quality (DEQ) staff have identified a need for greater flexibility to utilize scientifically defensible water quality criteria assessment methodologies for the Chesapeake Bay and its tidal tributaries. DEQ analyzes available monitoring data and biennially performs a water quality assessment. Whenever assessments indicate that a waterbody does not meet one or more water quality criteria, according to established DEQ guidelines, or fails to support a designated use, the waters are considered impaired and are added to the state impaired waters list. Applying appropriate and scientifically based methods contributes to improved water quality assessment procedures that will protect human health and aquatic life in the Chesapeake Bay and its tidal tributaries, resulting in healthier fisheries and safer and more reliable public water supplies and contributes to economic benefits from tourism, economic development, and commercial and recreational fishing industries enjoyed by citizens.

Rationale for Using Fast-Track Rulemaking Process: The proposed revised language specifies that Chesapeake Bay criteria can be assessed using currently utilized cumulative frequency distribution (CFD) method and also allows using alternative scientifically defensible methods. This proposed

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change is prompted by DEQ staff who believe that the proposed revision will provide greater flexibility for criteria implementation and make additional datasets available for Chesapeake Bay water quality assessments. This rulemaking is using a fast-track rulemaking process because it is considered noncontroversial.

Substance: The proposed substantive amendment to 9VAC25-260-185 D 3 adds language that allows for the criteria for the Chesapeake Bay and its tidal tributaries to be assessed using alternative scientifically defensible methods other than the CFD methodology. Language that specifies that only the CFD methodology must be used for assessment purposes has been removed.

Issues: The primary advantage to the public is that this amendment allows DEQ to improve its capabilities for assessing attainment of designated uses and water quality to protect human health and aquatic life in the Chesapeake Bay and its tidal waters. There are no primary disadvantages to the public. The primary advantage to the agency and the Commonwealth is the ability to efficiently utilize already available data and apply improved methods for assessing attainment of designated uses in the Chesapeake Bay. There is no disadvantage 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 allow "any scientifically defensible assessment method" to assess 11 dissolved oxygen criteria for the Chesapeake Bay and the tidal portions of its tributaries that protect certain designated uses; this would be in addition to the cumulative frequency distribution methodology, which is the only methodology that is currently allowed.

Background. Under the federal Clean Water Act, states are required to monitor and assess the surface waters within their jurisdictional boundary with respect to water quality standards. Waterbodies that are determined not to meet water quality standards are identified as impaired by the Department of Environmental Quality (DEQ) water quality assessment program and are placed on Virginia's § 303(d) list, which is often referred to as the impaired waters list. The § 303(d) list is sent to the Environmental Protection Agency (EPA) every two years for approval. Per the federal Clean Water Act, a waterbody placed on a state's § 303(d) list is prioritized for a clean-up plan known as a total maximum daily load (TMDL). The pollutant addressed by a TMDL is determined to be the likely cause of waterbody impairment. A TMDL represents the maximum load of the pollutant that a waterbody can assimilate

while still meeting water quality standards, which is instrumental in identifying the corrective actions that must be taken. This regulatory action pertains to 11 dissolved oxygen criteria for the Chesapeake Bay and the tidal portions of its tributaries that protect the following four designated uses: (i) two criteria for migratory fish spawning nursery (i.e., seven-day mean, instantaneous minimum); (ii) five criteria for open water (i.e., 30-day mean with 0 to 0.5 ppt salinity, 30-day mean with greater than a 0.5 ppt salinity, seven-day mean, instantaneous minimum for less than 29 degrees Celsius, instantaneous minimum for greater than or equal to 29 degrees Celsius); (iii) three criteria for deep water (i.e., 30-day mean, one-day mean, instantaneous minimum); and (iv) one criterion for deep channel (i.e., instantaneous minimum).

The current regulation stipulates that the criteria shall be assessed "through comparison of the generated cumulative frequency distribution of the monitoring data to the applicable criteria reference curve for each designated use," also known as the cumulative frequency distribution (CFD) methodology. The CFD approach has been used by the Chesapeake Bay program office since the early 2000s to assess water quality thresholds and criteria in the Chesapeake Bay and its tidal tributaries. This statistical tool allows criteria nonattainment to be expressed in terms of space and time, rather than just in time as more conventional tools do. However, the existing language in the regulation limits which methods DEQ can use to assess the criteria for dissolved oxygen. One limitation of the current regulatory language is that it limits assessments to using only discrete datasets, and excludes other types of available data. For example, water quality data from state-of-the-art automated continuous monitoring instrumentation that collects high-frequency data are not compatible with the CFD procedures. This limitation means that the current CFD approach only allows for the assessment of four (i.e., criteria noted) of the 11 dissolved oxygen criteria in the Chesapeake Bay and its tidal tributaries. Furthermore, according to DEQ, although failure to meet any of the 11 criteria may be sufficient for the waterbody to be placed on the impaired water list, to be removed from that list all 11 criteria may have to be met. Generally, exceeding any of the applicable criteria may result in an impaired categorization. DEQ uses a weight of evidence approach where it considers all available data and information as well as available assessment procedures. It is possible that a weight of evidence analysis would identify that there is not sufficient information to make a determination and that additional data must be collected. Similarly, while failure to meet any of the 11 criteria may be sufficient for the waterbody to be placed on the impaired list, there is the caveat that not all 11 criteria would necessarily apply to all waterbodies. Since seven of the 11 criteria cannot be assessed with the CFD methodology, failing one of the four criteria using the CFD methodology just once results in that waterbody being placed on the impaired water list permanently, even if the criteria that triggered placement may have been satisfied later. In other words, when failed, assessment of any one of the four criteria

places the waterbody on the impaired water list and that waterbody cannot be removed from the list because all of the 11 criteria (provided all are applicable) cannot be assessed with the CFD methodology. As a result of these limitations, DEQ staff have identified a need for greater flexibility to utilize scientifically defensible water quality criteria assessment methodologies for the Chesapeake Bay and its tidal tributaries. In addition, DEQ reports that monitoring datasets composed of the state-of-the-art automated, continuous, and high-frequency data are available to be used for assessment using methodologies other than the CFD methodology. Thus, the board proposes to allow other assessment methodologies that can make use of the readily available data to assess potentially all 11 dissolved oxygen criteria.

Estimated Benefits and Costs. According to DEQ, applying appropriate and scientifically based methods contributes to improved water quality assessment procedures. This protects human health and aquatic life in the Chesapeake Bay and its tidal tributaries and results in healthier fisheries, safer and more reliable public water supplies, and also contributes to economic benefits from tourism, economic development, and commercial and recreational fishing industries. Additionally, DEQ reports that an estimated \$2.5 million from state and federal funds is annually spent acquiring high-frequency continuous monitoring data in the tidal waters of the Chesapeake Bay watershed. However, the CFD methodology cannot be employed to analyze those types of data. Therefore, allowing other scientifically defensible methods that are capable of analyzing readily available high-frequency continuous monitoring data is expected to provide a better return on investment for the data collection and monitoring efforts. Moreover, the use of other methods is expected to allow the assessment of potentially all 11 criteria, which should result in a better and more comprehensive assessment of designated uses. However, the capability to assess more criteria may increase the number of waterbodies that are designated as impaired. On the other hand, the capability to assess potentially all 11 criteria would also make it possible to determine if all criteria are satisfied and, in the event all criteria are satisfied, provide a way for a waterbody to be removed from Virginia impaired waters list. DEQ believes that the latter scenario is more likely, and that fewer waters may remain on the list as a result of this regulatory change. This is partly because many of the waterbodies in the Chesapeake Bay and its tidal tributaries are already included on the impaired waters list. Generally, a decrease in the number of impaired waters should reduce the number of TMDLs and potentially reduce cleanup costs. According to DEQ, the average cost of a TMDL is approximately \$100,000. TMDL requirements are implemented through VPDES permits for authorized point source discharges and through TMDL implementation plans for nonpoint sources. Compliance with TMDL requirements are then achieved through permit requirements for regulated entities or incentive-driven best management practices for nonpoint sources. An impaired waterbody retains its

classification as such even after the completion and implementation of the TMDL. A waterbody is not considered non-impaired until monitoring data indicate it is meeting water quality standards. Other costs may be associated with an impaired waterbody apart from the costs of a clean-up plan and its implementation. Impaired waters may require additional monitoring resources so that the nature of the impairment can be properly characterized. Additionally, waterbodies that are not meeting water standards by definition do not attain the beneficial uses they are supposed to be providing. This may mean that there are elevated public health risks for individuals who recreate in or consume the fish or shellfish taken from the water body. Suboptimal habitat for aquatic life may translate into reduced yields for commercial and sports fishing. There may also be negative impacts on tourism when a water body is declared unsafe for swimming. DEQ reports that much of the Virginia portion of the Chesapeake Bay (and some waters in its tidal tributaries) were listed as impaired in 1999 by EPA. EPA made this determination based primarily on exceedances of dissolved oxygen criteria, which was the standard used at that time. In 2010, EPA finalized the Chesapeake Bay TMDL, the most expansive TMDL in the country to date. While there were no direct costs to Virginia resulting from the EPA listing decision and the subsequent TMDL, millions of dollars have been spent to implement the TMDL so that the impaired waters identified by EPA can be restored. The costs have been borne by both the private and public sectors. Wastewater dischargers authorized under the VPDES program include both private and publicly owned facilities, which have installed upgraded treatment processes and installed best management practices to limit pollutant discharges. Additionally, local, state, and federal funding has supported establishment of programs and implementation of practices to limit discharges in nonpoint sources, such as stormwater from agricultural and developed lands. Removing a waterbody from the impaired waters list after a TMDL has already been developed and implemented, as is the case with the Chesapeake Bay, does not eliminate all costs. Some compliance costs are ongoing, since the waterbody must be kept from relapsing into an impaired condition. However, some cost avoidance may be expected in terms of no longer needing to implement point source pollution control measures and install best management practices (e.g., stream fencing), and hence the costs associated with increased protection of water quality can be avoided.

Businesses and Other Entities Affected. The proposed allowance of new water quality criteria assessment methodologies does not directly affect any entities other than DEQ. With the proposed changes, DEQ is expected to have enhanced ability to assess and report on progress towards meeting water quality standards in the Chesapeake Bay and its tidal tributaries. To the extent some waterbodies are removed from the impaired water list, there may be some cost avoidance benefit to point and non-point sources. However, there is no way of knowing which waterbodies and entities would be affected at this time. This regulation geographically applies to

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the Chesapeake Bay and its tidal tributaries. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.³ As noted, the addition of other scientifically defensible methods may primarily provide some benefits in terms of better assessing water quality and may provide some benefits in cost avoidance. Thus, no adverse impact is indicated.

Small Businesses⁴ Affected.⁵ The proposed amendments do not appear to adversely affect small businesses.

Localities⁶ Affected.⁷ The proposed amendments geographically apply to the Chesapeake Bay and its tidal tributaries. However, no direct costs on localities in that geographic location is indicated.

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

Effects on the Use and Value of Private Property. No direct effects on the use and value of private property nor on real estate development costs are expected. However, to the extent proposed changes result in better water quality in the Chesapeake Bay and its tidal tributaries, a positive impact on real estate values in that area may be expected.

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 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 specify that Chesapeake Bay criteria can be assessed using the currently utilized cumulative frequency distribution method and by using alternative scientifically defensible methods to provide greater flexibility for criteria implementation and make additional datasets available for Chesapeake Bay water quality assessments.

9VAC25-260-185. Criteria to protect designated uses from the impacts of nutrients and suspended sediment in the Chesapeake Bay and its tidal tributaries.

A. Dissolved oxygen. The dissolved oxygen criteria in the following table apply to all Chesapeake Bay waters according to their specified designated use and supersede the dissolved oxygen criteria in 9VAC25-260-50.

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

Designated Use	Criteria Concentration/Duration	Temporal Application
Migratory fish spawning and nursery	7-day mean \geq 6 mg/l (tidal habitats with 0-0.5 ppt salinity)	February 1 - May 31
	Instantaneous minimum \geq 5 mg/l	
Open water ¹	30-day mean \geq 5.5 mg/l (tidal habitats with 0-0.5 ppt salinity)	year-round ²
	30-day mean \geq 5 mg/l (tidal habitats with > 0.5 ppt salinity)	
	7-day mean \geq 4 mg/l	
	Instantaneous minimum \geq 3.2 mg/l at temperatures < 29°C Instantaneous minimum \geq 4.3 mg/l at temperatures \geq 29°C	

Deep water	30-day mean \geq 3 mg/l	June 1 - September 30
	1-day mean \geq 2.3 mg/l	
	Instantaneous minimum \geq 1.7 mg/l	
Deep channel	Instantaneous minimum \geq 1 mg/l	June 1 - September 30

¹In applying this open water instantaneous criterion to the Chesapeake Bay and its tidal tributaries where the existing water quality for dissolved oxygen exceeds an instantaneous minimum of 3.2 mg/l, that higher water quality for dissolved oxygen shall be provided antidegradation protection in accordance with 9VAC25-260-30 A 2.

²Open-water dissolved oxygen criteria attainment is assessed separately over two time periods: summer (June 1 - September 30) and nonsummer (October 1-May 31) months.

B. Submerged aquatic vegetation (SAV) and water clarity. Attainment of the shallow-water submerged aquatic vegetation designated use shall be determined using any one of the following criteria:

Designated Use	Chesapeake Bay Program Segment	SAV Acres ¹	Percent Light-Through-Water ²	Water Clarity Acres ¹	Temporal Application
Shallow water submerged aquatic vegetation use	CB5MH	7,633	22%	14,514	April 1 - October 31
	CB6PH	1,267	22%	3,168	March 1 - November 30
	CB7PH	15,107	22%	34,085	March 1 - November 30
	CB8PH	11	22%	28	March 1 - November 30
	POTTF	2,093	13%	5,233	April 1 - October 31
	POTOH	1,503	13%	3,758	April 1 - October 31
	POTMH	4,250	22%	10,625	April 1 - October 31
	RPPTF	66	13%	165	April 1 - October 31
	RPPOH	4	13%	10	April 1 - October 31
	RPPMH	5,380	22%	13,450	April 1 - October 31
	CRRMH	768	22%	1,920	April 1 - October 31
	PIAMH	3,479	22%	8,014	April 1 - October 31
	MPNTF	85	13%	213	April 1 - October 31
	MPNOH	-	-	-	-
	PMKTF	187	13%	468	April 1 - October 31
	PMKOH	-	-	-	-
	YRKMH	239	22%	598	April 1 - October 31
	YRKPH	2,793	22%	6,982	March 1 - November 30
	MOBPH	15,901	22%	33,990	March 1 - November 30
JMSTF2	266	13%	665	April 1 - October 31	

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	JMSTF1	1,333	13%	3,332	April 1 - October 31
	APPTF	379	13%	948	April 1 - October 31
	JMSOH	15	13%	38	April 1 - October 31
	CHKOH	535	13%	1,338	April 1 - October 31
	JMSMH	531	22%	1,328	April 1 - October 31
	JMSPH	604	22%	1,510	March 1 - November 30
	WBEMH	-	-	-	-
	SBEMH	-	-	-	-
	EBEMH	-	-	-	-
	ELIPH	-	-	-	-
	LYNPH	107	22%	268	March 1 - November 30
	POCOH	-	-	-	-
	POCMH	4,066	22%	9,368	April 1 - October 31
	TANMH	13,579	22%	22,064	April 1 - October 31

¹The assessment period for SAV and water clarity acres shall be the single best year in the most recent three consecutive years. When three consecutive years of data are not available, a minimum of three years within the data assessment window shall be used.

²Percent light-through-water = $100e^{-K_d Z}$ where K_d is water column light attenuation coefficient and can be measured directly or converted from a measured secchi depth where $K_d = 1.45/\text{secchi depth}$. Z = depth at location of measurement of K_d .

C. Chlorophyll a.

Designated Use	Chlorophyll a Narrative Criterion	Temporal Application
Open water	Concentrations of chlorophyll a in free-floating microscopic aquatic plants (algae) shall not exceed levels that result in undesirable or nuisance aquatic plant life or render tidal waters unsuitable for the propagation and growth of a balanced, indigenous population of aquatic life or otherwise result in ecologically undesirable water quality conditions such as reduced water clarity, low dissolved oxygen, food supply imbalances, proliferation of species deemed potentially harmful to aquatic life or humans, or aesthetically objectionable conditions.	March 1 - September 30

See 9VAC25-260-310 special standard bb for numerical chlorophyll criteria for the tidal James River.

D. Implementation.

1. Chesapeake Bay program segmentation scheme as described in Chesapeake Bay Program, 2004 Chesapeake Bay Program Analytical Segmentation Scheme-Revisions, Decisions and Rationales: 1983–2003, CBP/TRS 268/04, EPA 903-R-04-008, Chesapeake Bay Program, Annapolis, Maryland, and the Chesapeake Bay Program published 2005 addendum (CBP/TRS 278-06; EPA 903-R-05-004) is listed in the following table and shall be used as the spatial assessment unit to determine attainment of the criteria in this section for each designated use.

Chesapeake Bay Segment Description	Segment Name ¹	Chesapeake Bay Segment Description	Segment Name ¹
Lower Central Chesapeake Bay	CB5MH	Mobjack Bay	MOBPH
Western Lower Chesapeake Bay	CB6PH	Upper Tidal Fresh James River	JMSTF2
Eastern Lower Chesapeake Bay	CB7PH	Lower Tidal Fresh James River	JMSTF1
Mouth of the Chesapeake Bay	CB8PH	Appomattox River	APPTF
Upper Potomac River	POTTF	Middle James River	JMSOH
Middle Potomac River	POTOH	Chickahominy River	CHKOH
Lower Potomac River	POTMH	Lower James River	JMSMH
Upper Rappahannock River	RPPTF	Mouth of the James River	JMSPH
Middle Rappahannock River	RPPOH	Western Branch Elizabeth River	WBEMH
Lower Rappahannock River	RPPMH	Southern Branch Elizabeth River	SBEMH
Corrotoman River	CRRMH	Eastern Branch Elizabeth River	EBEMH
Piankatank River	PIAMH	Lafayette River	LAFMH
Upper Mattaponi River	MPNTF	Mouth of the Elizabeth River	ELIPH
Lower Mattaponi River	MPNOH	Lynnhaven River	LYNPH
Upper Pamunkey River	PMKTF	Middle Pocomoke River	POCOH
Lower Pamunkey River	PMKOH	Lower Pocomoke River	POCMH
Middle York River	YRKMH	Tangier Sound	TANMH
Lower York River	YRKPH		

¹First three letters of segment name represent Chesapeake Bay segment description, letters four and five represent the salinity regime of that segment (TF = Tidal Fresh, OH = Oligohaline, MH = Mesohaline, and PH = Polyhaline) and a sixth space is reserved for subdivisions of that segment.

2. The assessment period shall be the most recent three consecutive years. When three consecutive years of data are not available, a minimum of three years within the data assessment window shall be used.

3. Attainment of these criteria shall be assessed through any scientifically defensible assessment methods, which may include a comparison of the generated cumulative frequency distribution (CFD) of the monitoring data to the applicable criteria reference curve for each designated use. If the monitoring data cumulative frequency curve is completely contained inside the reference curve, then the segment is in attainment of the designated use. The reference curves and CFD procedures to be followed are published in the USEPA, Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries, EPA 903-R-03-002, April 2003 and the 2004 (EPA 903-R-03-002 October 2004), 2007 (CBP/TRS 285/07, EPA 903-R-07-003), 2007 (CBP/TRS 288/07, EPA 903-R-07-005), 2008 (CBP/TRS 290-08, EPA 903-R-08-

001), 2010 (CBP/TRS 301-10, EPA 903-R-10-002), and 2017 (CBP/TRS 320-17, EPA 903-R-17-002) addenda. ~~An exception to this requirement is in measuring attainment of the SAV and water clarity acres, which are compared directly to the criteria.~~

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TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

Titles of Regulations: 12VAC30-70. Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care (adding 12VAC30-70-411, 12VAC30-70-429).

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12VAC30-80. Methods and Standards for Establishing Payment Rate; Other Types of Care (amending 12VAC30-80-20).

12VAC30-160. Hospital Assessment (adding 12VAC30-160-10).

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

Effective Date: January 1, 2025.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Summary:

The amendments (i) authorize the Department of Medical Assistance Services to levy assessments upon private acute care hospitals operating in Virginia to fund new Medicaid coverage for adults as well as new Medicaid hospital supplemental payments, (ii) establish new supplemental inpatient and outpatient payments for qualifying private acute care hospitals in Virginia, and (iii) sunset supplemental payments made to certain private teaching hospitals to avoid overlapping supplemental payments. The amendments are required by §§ 3-5.15 and 3-5.16 and Item 303 XX 6 c of the 2018 Appropriation Act (Chapter 2 of the 2018 Acts of Assembly, Special Session I).

Nonsubstantive changes were made from the proposed language for clarity, to account for impending policy updates, and in order to comply with budgetary requirements.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

12VAC30-70-411. Supplemental payments for certain teaching hospitals.

~~[A. Effective for dates of service on or after July 1, 2017, quarterly supplemental payments will be issued to qualifying private hospitals for inpatient services rendered during the quarter. These quarterly supplemental payments will cease for dates of service on or after October 1, 2018.~~

~~B. A.]~~ Qualifying criteria. Qualifying hospitals are the primary teaching hospitals affiliated with a Liaison Committee on Medical Education (LCME) accredited medical school located in Planning District 23 that is a political subdivision of the Commonwealth and an LCME accredited medical school located in Planning District 5 that has a partnership with a public university.

~~[C. B.]~~ Reimbursement methodology. Each qualifying hospital shall receive quarterly supplemental payments for the inpatient services rendered during the quarter equal to the difference between the hospital's Medicaid payments and the hospital's disproportionate share limit (Omnibus Budget

Reconciliation Act 93 disproportionate share hospital limit) for the most recent year for which the disproportionate share limit has been calculated divided by four. The supplemental payment amount will be determined prior to the beginning of the fiscal year.

~~[D. C.]~~ Limit. Maximum aggregate payments to all qualifying hospitals shall not exceed the available upper payment limit per state fiscal year (SFY). In SFY 2019, the upper payment limit shall be prorated for the time period these supplemental payments are in effect.

12VAC30-70-429. Supplemental payments for private acute care hospitals.

A. Starting October 1, 2018, supplemental payments will be issued to qualifying hospitals for inpatient services provided to Medicaid patients.

B. Definitions. The following words and terms when used in this section shall have the following meanings unless otherwise stated:

"Acute care hospital" means any hospital that provides emergency medical services on a 24-hour basis.

"Children's hospital" means a hospital (i) whose inpatients are predominantly younger than 18 years of age and (ii) that is excluded from the Medicare prospective payment system pursuant to the Social Security Act.

"Critical access hospital" means a facility that meets the requirements of the State Medicare Rural Hospital Flexibility Program, 42 USC § 1395i-4, for such designation.

"Freestanding psychiatric and rehabilitation hospital" means a freestanding psychiatric hospital, which means a hospital that provides services consistent with 42 CFR 482.60, or a freestanding rehabilitation hospital, which means a hospital that provides services consistent with 42 CFR 482.56.

"Hospital" means a medical care facility licensed as an inpatient hospital or outpatient surgical center by the [Virginia] Department of Health or as a psychiatric hospital by the Department of Behavioral Health and Developmental Services.

"Long-stay hospital" means specialty facilities that serve individuals receiving medical assistance who require a higher intensity of nursing care than that which is normally provided in a nursing facility and who do not require the degree of care and treatment that an acute care hospital is designed to provide.

"Long-term acute care hospital" or "LTACH" means an inpatient hospital that provides care for patients who require a length of stay greater than 25 days and is, or proposes to be, certified by [CMS Centers for Medicare and Medicaid Services (CMS)] as a long-term care inpatient hospital pursuant to 42 CFR Part 412. [A An] LTACH may be either a freestanding facility or located within an existing or host hospital.

"Public hospital" means a hospital that is solely owned by a government or governmental entity.

"Supplemental payment" or "private acute care enhanced payment" means an increased payment to a qualifying hospital up to the upper payment limit gap from the Health Care Provider Rate Assessment Fund as [initially] authorized in the 2018 [and 2019] Appropriation [Acts Act and reauthorized in the subsequent Appropriation Acts].

"Upper payment limit" [or "UPL"] means the limit on payment for inpatient services for recipients of medical assistance established in accordance with 42 CFR 447.272, and on payment for outpatient services for recipients of medical assistance pursuant to 42 CFR 447.321 for private hospitals. The limit applies only to fee-for-service claims.

"Upper payment limit gap" or "UPL gap" means the difference between the amount of the private acute care hospital upper payment limits estimated for the State Plan rate year using the latest available cost report data, and the amount estimated that would otherwise be paid for the same State Plan rate year pursuant to the State Plan reimbursement methodology for inpatient and outpatient services. The upper payment limit gap shall be updated annually for each rate year.

C. Qualifying criteria. Qualifying hospitals are all in-state private acute care hospitals, excluding public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long-stay hospitals, long-term acute care hospitals, and critical access hospitals.

D. Reimbursement methodology. The supplemental payment shall equal inpatient hospital claim payments times the UPL gap percentage.

1. The UPL gap percentage is the percentage calculated when the numerator is the upper payment limit gap for inpatient services for private hospitals and the denominator is Medicaid claim payments to all qualifying hospitals for inpatient hospital services provided to Medicaid patients in the same year used in the numerator.

2. The UPL gap percentage will be calculated annually.

E. Quarterly payments. After the close of each quarter, beginning with the quarter ending December 31, 2018, each qualifying hospital shall receive supplemental payments for the inpatient services paid during that quarter. The supplemental payments for each qualifying hospital for each quarter shall be calculated based on the Medicaid inpatient hospital payments paid in that quarter multiplied by the UPL gap percentage.

12VAC30-80-20. Services that are reimbursed on a cost basis.

A. Payments for services listed in this section shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program with the exception

provided for in subdivision D 1 e of this section. The upper limit for reimbursement shall be no higher than payments for Medicare patients in accordance with 42 CFR 447.321. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

B. Reasonable costs will be determined from the filing of a uniform Centers for Medicare and Medicaid Services-approved cost report by participating providers. The cost reports are due not later than 150 days after the provider's fiscal year end. If a complete cost report is not received within 150 days after the end of the provider's fiscal year, DMAS or its designee shall take action in accordance with its policies to [~~assure~~ ensure] that an overpayment is not being made. All cost reports shall be reviewed and reconciled to final costs within 180 days of the receipt of a completed cost report. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form provided by DMAS, with signed certification;
2. The provider's trial balance showing adjusted journal entries;
3. The provider's financial statements including a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules that reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

C. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

D. The services that are cost reimbursed are:

1. For dates of service prior to January 1, 2014, outpatient hospital services, including rehabilitation hospital outpatient services and excluding laboratory services.
 - a. Definitions. The following words and terms when used in this section shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency department and ancillary service charges claimed in association with the

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emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency hospital services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury that has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse for nonemergency care rendered in emergency departments at a reduced rate.

(1) With the exception of laboratory services, DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all services rendered in emergency departments that DMAS determines were nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services performed by the attending physician that may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for subdivision 1 b (2) of this subsection. Services not meeting certain criteria shall be paid under the methodology of subdivision 1 b (1) of this subsection. Such criteria shall include:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD diagnosis codes and necessary supporting documentation. As used here, the term "ICD" is defined in 12VAC30-95-5.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD code designations, and the impact on recipients and providers. As used here, the term "ICD" is defined in 12VAC30-95-5.

c. Limitation of allowable cost. Effective for services on and after July 1, 2003, reimbursement of Type Two hospitals for outpatient services shall be at various percentages as noted in subdivisions 1 c (1) and 1 c (2) of this subsection of allowable cost, with cost to be determined as provided in subsections A, B, and C of this section. For hospitals with fiscal years that do not begin on July 1, outpatient costs, both operating and capital, for the fiscal year in progress on that date shall be apportioned between the time period before and the time period after that date, based on the number of calendar months in the cost reporting period, falling before and after that date.

(1) Type One hospitals.

[~~(a) Effective July 1, 2003, through June 30, 2010, hospital outpatient operating reimbursement shall be at 94.2% of allowable cost and capital reimbursement shall be at 90% of allowable cost.~~

~~(b) Effective July 1, 2010, through September 30, 2010, hospital outpatient operating reimbursement shall be at 91.2% of allowable cost and capital reimbursement shall be at 87% of allowable cost.~~

~~(c) Effective October 1, 2010, through June 30, 2011, hospital outpatient operating reimbursement shall be at 94.2% of allowable cost and capital reimbursement shall be at 90% of allowable cost.~~

~~(d)] Effective July 1, 2011, hospital outpatient operating reimbursement shall be at 90.2% of allowable cost and capital reimbursement shall be at 86% of allowable cost.~~

(2) Type Two hospitals.

[~~(a) Effective July 1, 2003, through June 30, 2010, hospital outpatient operating and capital reimbursement shall be 80% of allowable cost.~~

~~(b) Effective July 1, 2010, through September 30, 2010, hospital outpatient operating and capital reimbursement shall be 77% of allowable cost.~~

~~(c) Effective October 1, 2010, through June 30, 2011, hospital outpatient operating and capital reimbursement shall be 80% of allowable cost.~~

~~(d)] Effective July 1, 2011, hospital outpatient operating and capital reimbursement shall be 76% of allowable cost.~~

d. The last cost report with a fiscal year end on or after December 31, 2013, shall be used for reimbursement for dates of service through December 31, 2013, based on this section. Reimbursement shall be based on charges

reported for dates of service prior to January 1, 2014. Settlement will be based on four months of runoff from the end of the provider's fiscal year. Claims for services paid after the cost report runoff period will not be settled.

e. Payment for direct medical education costs of nursing schools, paramedical programs, and graduate medical education for interns and residents.

(1) Direct medical education costs of nursing schools and paramedical programs shall continue to be paid on an allowable cost basis.

(2) Effective with cost reporting periods beginning on or after July 1, 2002, direct graduate medical education (GME) costs for interns and residents shall be reimbursed on a per-resident prospective basis. See 12VAC30-70-281 for prospective payment methodology for graduate medical education for interns and residents.

2. Rehabilitation agencies or comprehensive outpatient rehabilitation.

a. Effective July 1, 2009, rehabilitation agencies or comprehensive outpatient rehabilitation facilities that are operated by community services boards or state agencies shall be reimbursed their costs. For reimbursement methodology applicable to all other rehabilitation agencies, see 12VAC30-80-200.

b. Effective October 1, 2009, rehabilitation agencies or comprehensive outpatient rehabilitation facilities operated by state agencies shall be reimbursed their costs. For reimbursement methodology applicable to all other rehabilitation agencies, see 12VAC30-80-200.

3. Supplement payments to Type One hospitals for outpatient services.

a. In addition to payments for services set forth elsewhere in the State Plan, DMAS makes supplemental payments to qualifying state government owned or operated hospitals for outpatient services furnished to Medicare members on or after July 1, 2010. To qualify for a supplement payment, the hospital must be part of the state academic health system or part of an academic health system that operates under a state authority.

b. The amount of the supplemental payment made to each qualifying hospital shall be equal to the difference between the total allowable cost and the amount otherwise actually paid for the services by the Medicaid program based on cost settlement.

c. Payment for furnished services under this section shall be paid at settlement of the cost report.

4. Supplemental payments for private hospital partners of Type One hospitals. Effective for dates of service on or after October 25, 2011, quarterly supplemental payments shall be issued to qualifying private hospitals for outpatient services rendered during the quarter. These quarterly supplemental payments will cease for dates of service on or after the

effective date of State Plan amendments authorizing increased payments to qualifying hospitals from the Health Care Provider Rate Assessment Fund established pursuant to § 32.1-331.02 of the Code of Virginia and approved by the Centers for Medicare and Medicaid Services.

a. In order to qualify for the supplemental payment, the hospital shall be enrolled currently as a Virginia Medicaid provider and shall be owned or operated by a private entity in which a Type One hospital has a nonmajority interest.

b. Reimbursement methodology.

(1) Hospitals not participating in the Medicaid disproportionate share hospital (DSH) program shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Each quarterly payment distribution shall occur not more than two years after the year in which the qualifying hospital's entitlement arises. The annual supplemental payments in a fiscal year shall be the lesser of:

(a) The difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for services processed for fee-for-service Medicaid individuals during the fiscal year; or

(b) \$1,894 per Medicaid outpatient visit for state plan rate year 2012. For future state plan rate years, this number shall be adjusted by inflation based on the Virginia moving average values as compiled and published by Global Insight (or its successor) under contract with [~~the~~ department DMAS].

(2) Hospitals participating in the DSH program shall receive quarterly supplemental payments for the outpatient services rendered during the quarter. Each quarterly payment distribution shall occur not more than two years after the year in which the qualifying hospital's entitlement arises. The annual supplemental payments in a fiscal year shall be the lesser of:

(a) The difference between each qualifying hospital's outpatient Medicaid billed charges and Medicaid payments the hospital receives for services processed for fee-for-service Medicaid individuals during the fiscal year;

(b) \$1,894 per Medicaid outpatient visit for state plan rate year 2012. For future state plan rate years, this number shall be adjusted by inflation based on the Virginia moving average values as compiled and published by Global Insight (or its successor) under contract with [~~the~~ department DMAS]; or

(c) The difference between the limit calculated under § 1923(g) of the Social Security Act and the hospital's DSH payments for the applicable payment period.

c. Limit. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

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5. Supplemental outpatient payments for non-state-government-owned hospitals. Effective July 1, 2018, supplemental payments will be issued to qualifying non-state-government-owned hospitals for outpatient services provided to Medicaid patients.

a. Qualifying hospitals are all non-state-government-owned acute care hospitals.

b. The supplemental payment shall equal outpatient hospital claim payments times the upper payment limit (UPL) gap percentage.

(1) The annual UPL gap percentage is the percentage calculated where the numerator is the difference for each qualifying hospital between a reasonable estimate of the amount that would be paid under Medicare payment principles for outpatient hospital services provided to Medicaid patients, as calculated in accordance with 42 CFR 447.321, and what Medicaid paid for such services, and the denominator is Medicaid claim payments to all qualifying hospitals for outpatient hospital services provided to Medicaid patients in the same year used in the numerator.

(2) The annual UPL gap percentage will be calculated annually for each hospital using the most recent year for which comprehensive annual data are available and inflated to the state fiscal year for which payments are to be made.

6. Quarterly payments. After the close of each quarter, beginning with the July 1, 2018, to September 30, 2018, quarter, each qualifying hospital shall receive supplemental payments for the outpatient services paid during the prior quarter. The supplemental payments for each qualifying hospital for each quarter shall be calculated by multiplying the Medicaid outpatient hospital payments paid in that quarter by the annual UPL gap percentage for each hospital.

7. Supplemental outpatient payments for private acute care hospitals. Starting October 1, 2018, supplemental payments will be issued to qualifying private hospitals for outpatient services provided to Medicaid patients.

a. Definitions. See definitions in 12VAC30-70-429.

b. Qualifying criteria. Qualifying hospitals are all in-state private acute care hospitals, excluding public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long-stay hospitals, long-term acute care hospitals, and critical access hospitals. A qualifying hospital is the same as a "covered hospital" in § 32.1-331.02 of the Code of Virginia.

c. Reimbursement methodology. The supplemental payment shall equal outpatient hospital claim payments times the UPL gap percentage.

(1) The UPL gap percentage is the percentage calculated where the numerator is the UPL gap for outpatient services for private hospitals and the denominator is Medicaid

claim payments to all qualifying hospitals for outpatient hospital services provided to Medicaid patients in the same year used in the numerator.

(2) The UPL gap percentage will be calculated annually.

d. Quarterly payments. After the close of each quarter, beginning with the quarter ending December 31, 2018, each qualifying hospital shall receive supplemental payments for the outpatient services paid during that quarter. The supplemental payments for each qualifying hospital for each quarter shall be calculated based on the Medicaid outpatient hospital payments paid in that quarter multiplied by the UPL gap percentage.

Chapter 160

Hospital Assessment

12VAC30-160-10. Hospital assessment.

A. Authority. The Department of Medical Assistance Services (DMAS) is authorized to levy a [~~Health Care Coverage Assessment~~ health care coverage assessment] and a [~~Health Care Provider Payment Rate Assessment~~ health care provider payment rate assessment] upon private acute care hospitals operating in Virginia in accordance with §§ 32.1-331.01 and 32.1-331.02 of the Code of Virginia and §§ 3-5.15, 3-5.16, and 4-14 as revised by the 2019 [and subsequent] Appropriation [~~Act~~ Acts].

B. Definitions. The following words and terms when used in this section shall have the following meanings unless otherwise stated:

["Coverage assessment amount" means the nonfederal share of the full cost of expanded Medicaid coverage times a multiplier determined by the General Assembly and published on the DMAS website at <https://www.dmas.virginia.gov/providers/rates-and-rate-setting/>. Effective July 1, 2021, the multiplier rate is 1.02.

"Coverage assessment percentage" means the coverage assessment amount divided by the total private acute care hospital net patient revenue.]

"Covered hospital" means any in-state private acute care hospital other than a hospital classified as a public hospital, freestanding psychiatric and rehabilitation hospital, children's hospital, long-stay hospital, long-term acute care hospital, or critical access hospital.

"Full cost of expanded Medicaid coverage" means (i) any and all Medicaid expenditures related to individuals eligible for Medicaid pursuant to 42 USC 1396d(y)(1) (2010) of the Patient Protection and Affordable Care Act, including any federal actions or repayments and (ii) all administrative costs associated with providing coverage, which includes the costs of administering the provisions of the 1115 waiver, and collecting the coverage assessment.

"Managed care organization," "MCO," or "Medicaid MCO" means an entity that meets the participation and solvency criteria defined in 42 CFR Part 438 and has an executed contractual agreement with DMAS to provide services covered under a mandatory managed care program.

"Managed care organization hospital payment gap" means the difference between the amount included in the capitation rates for inpatient and outpatient services for the contract year based on historical paid claims and the amount that would be [~~included paid~~] when the projected hospital services furnished by private acute care hospitals operating in Virginia are priced for the contract year equivalent to the [~~fee for service upper payment limit subject to CMS approval~~ maximum managed care directed payment amount allowed by the Centers for Medicare and Medicaid Services] under 42 CFR 438.6(c). The managed care organization hospital payment gap shall be updated annually for each contract year.

"Managed care organization supplemental hospital capitation payment adjustment" means the additional amount added to Medicaid MCO capitation rates to pay the Medicaid managed care organization hospital payment gap to qualifying private acute care hospitals for services to Medicaid recipients.

"Net patient service revenue" means the amount each hospital reported in the most recent Virginia Health Information Hospital Detail Report [~~as of December 15 of each year~~] excluding any nonhospital revenue that meets the requirements in subsection C of this section.

[~~"Newly eligible individual" means an individual described in 42 USC § 1396a(a)(10)(A)(i)(VIII).~~]

"Private acute care hospital" means acute care hospitals, excluding public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long-stay hospitals, long-term acute care hospitals, and critical access hospitals.

[~~"Provider payment rate costs" means the upper payment limit gap and the managed care organization hospital payment gap.~~]

"Private acute care hospital enhanced payments" means payments made to (i) fund an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the upper payment limit gap and (ii) fill the managed care organization hospital payment gap for care provided to recipients of medical assistance services.]

"Upper payment limit" means the limit on payment for inpatient services for recipients of medical assistance established in accordance with 42 CFR 447.272 and on payment for outpatient services for recipients of medical assistance pursuant to 42 CFR 447.321 for private hospitals. This limit applies only to fee-for-service claims.

"Upper payment limit gap" means the difference between the amount of the private acute care hospital upper payment limits

estimated for the State Plan rate year using the latest available cost report data and the amount estimated that would otherwise be paid for that same State Plan rate year pursuant to the State Plan for inpatient and outpatient services. The supplemental payment methodology from the Health Care Provider Payment Rate Fund to qualifying hospitals for inpatient services is described in 12VAC30-70-429 and for outpatient services is described in 12VAC30-80-20. The upper payment limit gap shall be updated annually for each State Plan rate year.

C. Nonhospital revenue that should be excluded from a hospital's net patient service revenue as reported to the Virginia Health Information (VHI) Hospital Detail Report must be reported to DMAS by April 1 of each year. The hospital's chief financial officer must certify any changes to the data reported to VHI.

D. Health care coverage assessment. Private acute care hospitals operating in Virginia shall [~~pay make~~] a provider coverage assessment [~~payment~~] beginning on or after October 1, 2018.

1. DMAS will calculate each hospital's coverage assessment [~~payment~~] by multiplying the coverage assessment percentage times [~~each hospital's~~] net patient service revenue.

2. The coverage assessment percentage is calculated [~~as quarterly by dividing~~] (i) [~~1.08 times the nonfederal share of the full cost of expanded Medicaid coverage for newly eligible individuals under 42 USC § 1396d(y)(1) (as inserted by § 2001 of the Patient Protection and Affordable Care Act (P.L. 111-148 as amended by P.L. 111-152))~~ divided the coverage assessment amount] by (ii) the total net patient service revenue for hospitals subject to the assessment. [~~The coverage assessment amount used in the quarterly calculation of the coverage assessment percentage shall include a reconciliation of the Health Care Coverage Assessment Fund prescribed in subdivision D 4 of this section and subtract all prior quarterly coverage assessments paid for that fiscal year before dividing the remainder by the remaining quarters in the fiscal year.~~]

3. DMAS shall, at a minimum, update the coverage assessment amount [~~to be effective on January 1 of each year. DMAS is further authorized to update the coverage assessment amount on a quarterly basis~~ whenever the full cost of expanded Medicaid coverage is updated in subdivision D 4 of this section or when necessary] to ensure [~~the total coverage assessment~~] amounts are sufficient to cover the full cost of expanded Medicaid coverage [~~for the state fiscal year~~] based on the latest estimate [~~of the coverage assessment amount~~]. Hospitals shall be given no less than [~~30 days'~~ a 15-day] notice prior to [~~the beginning of the quarter with associated calculations supporting the~~] change in [~~their~~ the hospital's] coverage assessment amount [~~and shall be provided with associated calculations~~]. Prior to any change to the coverage assessment amount, DMAS

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shall perform and incorporate a reconciliation of the Health Care Coverage Assessment Fund [through the most recent complete quarter]. Any estimated excess or shortfall of revenue [since the previous reconciliation] shall be deducted from or added to the [full cost of expanded Medicaid coverage for the updated] coverage assessment amount.

4. The full cost of expanded Medicaid coverage shall be updated (i) on November 1 of each year based on the official Medicaid forecast and latest administrative cost estimates developed by DMAS; (ii) no more than 30 days after the enactment of any Appropriation Act to reflect policy changes adopted by the latest session of the General Assembly; and (iii) on March 1 of any year in which DMAS estimates that the most recent [~~non-federal~~ nonfederal] share of the full cost of expanded Medicaid coverage multiplied by [~~1.08~~ a multiplier determined by the General Assembly] will be insufficient to pay all expenses for the full cost of expanded Medicaid coverage.

5. The coverage assessment shall be used only to cover the nonfederal share of the full cost of expanded Medicaid coverage.

6. Hospitals subject to the coverage assessment shall make quarterly payments to DMAS equal to 25% of the [hospital's] annual coverage assessment amount. The assessment payments are due not later than the first day of each quarter. In the first year, the first coverage assessment payment shall be due on or after October 1, 2018. Hospitals that fail to make the coverage assessment payments within 30 days of the due date shall incur a 5.0% penalty that shall be deposited into the Virginia Health Care Fund. Any unpaid coverage assessment or penalty will be considered a debt to the Commonwealth, and DMAS is authorized to recover it as such.

E. Health care provider payment rate assessment. Private acute care hospitals operating in Virginia shall pay a provider payment rate assessment beginning on or after October 1, 2018.

Proceeds from the provider payment rate assessment shall be disbursed to fund an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the upper payment limit and the managed care organization hospital payment gap for care provided to recipients of [Virginia] medical assistance services.

1. DMAS will calculate each hospital's payment rate assessment by multiplying the payment rate assessment percentage times net patient service revenue.

2. The payment rate assessment percentage for covered hospitals will be calculated as [(i) ~~1.08~~ a percentage determined by the General Assembly and published on the DMAS website at: <https://dmas.virginia.gov/media/3553/coverage-assessment-multiplier.docx> times] the nonfederal

share of funding [of] the [~~upper payment limit gap and the managed care organization hospital payment gap~~ private acute care hospital enhanced payments] divided by [(ii)] the total net patient service revenue for [~~covered~~ qualifying] hospitals.

3. DMAS is authorized to update the payment rate assessment amount on a quarterly basis to ensure amounts are sufficient to cover the full cost of the private acute care hospital enhanced payments [for the calendar quarter] based on the [~~latest estimate~~ department's quarterly claims and encounter data]. Hospitals shall be given no less than [~~30 days~~ a 15-day] prior notice of the new assessment amount and be provided with calculations. Prior to any change to the payment rate assessment amount, DMAS shall perform and incorporate a reconciliation of the Health Care Provider Payment Rate Assessment Fund. Any estimated excess or shortfall of revenue since the previous reconciliation shall be deducted from or added to the calculation of the private acute care hospital enhanced payments.

4. As part of the development of the managed care capitation rates, DMAS shall calculate a managed care organization supplemental hospital capitation payment adjustment. This is a distinct additional amount added to Medicaid MCO capitation rates to pay the managed care organization hospital payment gap as supplemental payments to covered private acute care hospitals operating in Virginia for services to [Virginia] Medicaid recipients. [~~DMAS shall make available quarterly a report of the additional capitation payments that are made to each MCO.~~]

5. [~~Hospitals subject to the assessment shall make quarterly payments to DMAS equal to 25% of the annual provider payment rate assessment amount.~~] The [payment rate] assessment payments are due not later than [~~the first day of each quarter~~ August 15, November 15, February 15, and May 15 of each state fiscal year]. In the first year, the first [payment rate] assessment payment shall be due on or after October 1, 2018. Hospitals that fail to make the [payment rate] assessment payments [~~within 30 days of on or before~~] the due date shall incur a 5.0% penalty that shall be deposited into the Virginia Health Care Fund. Any unpaid [payment rate] assessment or penalty will be considered a debt to the Commonwealth, and DMAS is authorized to recover it as such.

F. Collection of the assessments. DMAS is responsible for collecting the assessments.

1. All revenue from the coverage assessment, excluding penalties shall be deposited into a special nonreverting fund to be known as the Health Care Coverage Assessment Fund pursuant to § 32.1-331.01 of the Code of Virginia. Proceeds from the Health Care Coverage Assessment Fund shall not be used for any other purpose than to cover the nonfederal

share of the full cost of [~~enhanced~~ expanded] Medicaid coverage.

2. All revenue from the provider payment rate assessment, excluding penalties, shall be deposited into a special nonreverting fund to be known as the Health Care Provider Payment Rate Assessment Fund pursuant to § 32.1-331.02 of the Code of Virginia. Proceeds from the Health Care Provider Payment Rate Assessment Fund shall not be used for any other purpose than to fund an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the private hospital upper payment limit or managed care organization hospital payment gap for care provided to recipients of medical assistance services and the administrative costs of collecting the assessment and of implementing and operating the associated payment rate actions.

[~~3. DMAS will submit reports as required by the Appropriations Act. The reports will include, for the most recently completed state fiscal year, the revenue collected from each assessment, expenditures for purposes covered by each assessment, and the year-end assessment balances in each special nonreverting fund. The report shall include a complete and itemized list of all administrative costs included in the coverage assessment.]~~

G. Appeal. A covered hospital may appeal a DMAS action that falls within the definition of agency action under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), including DMAS's interpretation and application of assessment methodologies. The assessment methodologies cannot be appealed.

1. Appeals will be conducted in accordance with the provider appeal regulations [~~(12VAC30-20)~~ (12VAC30-20-500 et seq.)].

2. A covered hospital shall be considered a provider for purposes of the appeal procedures set forth in the provider appeal regulations.

VA.R. Doc. No. R19-5591; Filed November 8, 2024, 7:53 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Fast-Track Regulation

Title of Regulation: 18VAC90-30. Regulations Governing the Licensure of Advanced Practice Registered Nurses (amending 18VAC90-30-125).

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 1, 2025.

Effective Date: January 16, 2025.

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

Basis: Regulations of the Boards of Nursing and Medicine are promulgated under the general authority § 54.1-2400 of the Code of Virginia, which specifically states that the general powers and duties of health regulatory boards shall be to promulgate regulations.

Purpose: The rationale for this action is to conform the regulation governing clinical nurse specialist practice agreements to reflect Chapter 197 of the 2022 Acts of Assembly. This regulatory change is essential to protect the health, safety, and welfare of citizens because the General Assembly has determined certain clinical nurse specialists do not need to practice under a practice agreement, and the reduction of that burden may increase the numbers of clinical nurse specialists working in the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: The action mirrors changes to statute and provides no discretion on the part of the agency or boards in the changes. Therefore, this action will not be controversial and is appropriate for the fast-track rulemaking process.

Substance: 18VAC90-30-125 is amended to eliminate the need for clinical nurse specialists to practice with a practice agreement provided the clinical nurse specialists meet the requirements found in Chapter 197 of the 2022 Acts of Assembly. The amendments to the regulation use language found in the statute.

Issues: The primary advantages to the public, including businesses such as hospitals, include being able to utilize the skills and training of clinical nurse specialists who do not prescribe controlled substances or devices without requiring a practice agreement. 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. Pursuant to Chapter 197 of the 2022 Acts of Assembly,² the Boards of Nursing and Medicine (boards) propose to indicate that a clinical nurse specialist (CNS) who does not prescribe

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controlled substances or devices does not need to practice pursuant to a practice agreement.

Background. Prior to July 1, 2021, CNSs were registered with the Board of Nursing. They worked without supervision as advanced practice registered nurses according to their scope of practice. In order to allow CNSs to apply for prescriptive authority, Chapter 157 of the 2021 Acts of Assembly, Special Session I³ required all CNSs to be jointly licensed by the Boards of Nursing and Medicine as nurse practitioners. According to the Department of Health Professions (DHP), this created an unintended consequence because the change also meant that all CNSs would be required to have a practice agreement with a licensed physician. A practice agreement was required even if a CNS did not want to practice with prescriptive authority, and DHP indicates that not all CNS licensees were seeking prescriptive authority. Rather, many CNSs focus on psychological-mental health where they do not prescribe, and the profession has the statutory authority⁴ to bill the Department of Medical Assistance Services as independent providers. Chapter 197 of the 2022 Acts of Assembly eliminated the unintended consequence by stipulating that a CNS who does not prescribe controlled substances or devices may practice without a practice agreement. Between the effective date of the 2021 legislation (July 1, 2021) and the effective date of the 2022 legislation (July 1, 2022), the unintended consequence was temporarily resolved by adding language to the 2021 Special Session II Appropriation Act that allowed CNS to practice without a practice agreement if they practiced without prescriptive authority.⁵ The budget language, which expired June 30, 2022, was added at the request of DHP after hearing concerns from the CNS community and representatives from the Virginia Association of Clinical Nurse Specialists who were concerned about the new requirement for all CNS to practice under a practice agreement.

Estimated Benefits and Costs. The proposed additional text for the regulation is identical to the text in the 2022 legislation. Thus, the only impact in practice is to better inform readers of the regulation as toward the actual requirements for CNS practice.

Businesses and Other Entities Affected. Hospitals or other health care entities that employ nurse practitioners licensed in the category of clinical nurse specialists who do not prescribe controlled substances are affected by the legislation in that it allows these practitioners to work without practice agreements. The Virginia Department of Health licenses 105 inpatient hospitals and 70 outpatient surgical hospitals.⁶ There are 399 licensed nurse practitioners in the category of clinical nurse specialists in Virginia.⁷ The board does not have data on the number of whom do not prescribe controlled substances or devices. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. The proposed amendments match statutory text; consequently, they

neither increase net cost nor reduce net revenue. Thus, no adverse impact is indicated.

Small Businesses⁹ Affected.¹⁰ The proposed amendments do not adversely affect small businesses.

Localities¹¹ Affected.¹² The proposed amendments neither disproportionately affect any particular localities, nor introduce costs for local governments.

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

Effects on the Use and Value of Private Property. As the proposed amendments match statute, the use and value of private property is not affected. Additionally, the proposed amendments do not affect real estate development costs.

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

² See <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+CHAP0197>.

³ See <https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0157>.

⁴ See § 32.1-325 F of the Code of Virginia: <https://law.lis.virginia.gov/vacode/title32.1/chapter10/section32.1-325/#v2/>.

⁵ See Items I 1 and I 2 at <https://lis.virginia.gov/cgi-bin/legp604.exe?213+ful+HB7001>.

⁶ Data source: Virginia Department of Health.

⁷ Data source: Department of Health Professions.

⁸ 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.

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 Board of Nursing concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

Pursuant to Chapter 197 of the 2022 Acts of Assembly, the amendments allow a clinical nurse specialist who does not prescribe controlled substances or devices to practice without a written or electronic practice agreement.

18VAC90-30-125. Practice of ~~nurse practitioners~~ advanced practice registered nurses licensed as in the category of clinical ~~advanced practice registered nurses~~ nurse specialist.

A. Advanced practice registered nurses licensed in the category of clinical nurse specialist who prescribe controlled substances or devices shall practice in consultation with a licensed physician in accordance with a practice agreement between the advanced practice registered nurse and the licensed physician.

B. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by an advanced practice registered nurse and provided to the boards upon request.

C. Advanced practice registered nurses licensed in the category of clinical nurse specialist who do not prescribe controlled substances or devices may practice in the category in which the advanced practice registered nurse is certified without a written or electronic practice agreement. Such advanced practice registered nurse shall:

1. Only practice within the scope of the advanced practice registered nurse's clinical and professional training and limits of the advanced practice registered nurse's knowledge and experience and consistent with the applicable standards of care;

2. Consult and collaborate with other health care providers based on the clinical condition of the patient to whom health care is provided; and

3. Establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

D. The practice of clinical nurse specialists shall be consistent with the standards of care for the profession and with applicable laws and regulations.

VA.R. Doc. No. R25-7304; Filed October 30, 2024, 1:49 p.m.

EXECUTIVE ORDER NUMBER FORTY-TWO (2024)

Catalyzing Housing Development for Critical Workforce and Economic Development Needs with Interagency Collaboration

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order to strengthen our Commonwealth's support of Virginia's economy by aligning economic development with housing plans and development, including the provision of housing for workforce needs.

Importance of the Initiative

Since 2022, because of our efforts to improve Virginia's ability to compete for private sector jobs and capital, Virginia now ranks among the top ten states for overall job growth¹ with nearly 250,000² more jobs filled today and more than \$85 billion in new capital commitments from employers locating or expanding operations in the Commonwealth.³ In a reversal of recent net migration trends, more people are moving into the Commonwealth of Virginia than are moving out.⁴

Maintaining Virginia's economic growth requires increased housing development⁵, yet the housing market has been constrained by limited supply⁶, burdensome regulation⁷, increasing construction costs,⁸ and high interest rates.⁹

Virginia is lagging in housing supply to adequately meet sustained employment growth recorded in the past few years.

According to analysis from Virginia Housing and the Virginia Economic Development Partnership (VEDP), Virginia's metro areas are building new units at a lower rate compared to metro areas in economic competitor states. Metro areas outside of Virginia's metro areas, but they are also outpacing the Commonwealth's metro areas in issuing permits for new residential units.

In aggregate, Virginia has a housing supply of approximately 3.6 million units,¹⁰ short of total housing demand of 4.1 million units.¹¹ Virginia needs to build another 550,000 units to meet current demand, as well as 30,000 per year to match the state's growth.

Housing development in Virginia is proceeding at half the rate of job growth. For workforce housing specifically, the current estimated shortfall is 41,000 homes.¹² Virginia's economic growth demands more supply of housing, especially workforce housing.

We must further our efforts to increase the supply of housing, especially workforce housing, reduce regulatory burdens which drive up the cost of construction, and align housing development with economic growth.

The Virginia Business Ready Sites Program administered by the Virginia Economic Development Partnership has begun to

incorporate housing supply into their analysis and will now require economic development organizations seeking grant funding to provide housing plans for nearby localities to be prepared to develop sufficient housing in support of resulting jobs.

We have improved our building codes—our Administration, led by the Department of Housing and Community Development, has reduced the cost of new home construction by approximately \$24,000 per unit.¹³

Additionally, through the Virginia Permitting Transparency system, formalized by Executive Order 39 (2024), the improvement in state permit processing time delivers real results for housing construction. For example, new housing developments often require state environmental permits from the Virginia Department of Environmental Quality (DEQ). DEQ is now clearing permits 70 percent faster on average than before the start of our Administration.¹⁴

Localities, which control zoning and planning, and where control of the vast majority of housing development permits and regulation resides, must drive similar processing time improvements.

We have prioritized infrastructure investments that support housing as well, including delivering broadband to over 130,000 previously unserved homes and businesses—a nation-leading figure.¹⁵

And, finally, today, our Administration announced the all-new Workforce Housing Investment Program, administered by Virginia Housing, which will invest \$75 million over five years with the potential to catalyze \$750 million and 5,000 units of workforce housing development near major announcements of new jobs.

The Workforce Housing Investment Program will catalyze investment in housing construction for Virginia families near reliable, high-paying jobs. Virginia Housing will provide loans, loan subsidies, and grants up to \$3 million to localities and non-profits to develop housing for workers earning 80-120 percent of area median income, and 150 percent in rural areas. To be eligible for investment, a locality must be within a 30-minute drive of a business adding new jobs: 100 for a non-distressed locality, 50 for a distressed locality, and 25 for a double distressed locality.

Virginia must not only continue to support the supply of affordable housing, but also accelerate the development of workforce housing statewide to support the employees filling new jobs.

Economic development for new and expanding business sites must consider all aspects of necessary site infrastructure, including housing for workers and their families. Business site investment decisions shall include nearby localities' plans to foster housing development with economic growth.

To formalize and make permanent our practice of aligning housing support with economic site development investment, this Executive Order integrates the provision of housing for critical workforce needs with economic development by adapting how the state invests in business-ready sites, pairing those investments with housing plans in nearby communities.

Directive

Accordingly, pursuant to the authority vested in me as Chief Executive Officer of the Commonwealth and pursuant to Article V of the Constitution of Virginia and the laws of the Commonwealth, I hereby direct the Virginia Economic Development Partnership and the Department of Housing and Community Development to develop a Memorandum of Understanding with the Virginia Housing Development Authority to do the following:

1. Integrate housing plans into the Virginia Business Ready Sites Program by requiring localities applying for funds to include a housing plan to match the job potential of each site.
2. Collaborate on the Virginia Workforce Housing Investment Program.

Effective Date

This Executive Order shall be effective upon its signing and shall remain in force and effect unless amended or rescinded by a future executive order or directive. Given under my hand and under the Seal of the Commonwealth of Virginia, this 14th day of November, 2024.

/s/ Glenn Youngkin, Governor

¹ U.S. Bureau of Labor Statistics, "Labor Area Unemployment Statistics," <https://www.bls.gov/lau/>.

² US, Bureau of Labor Statistics, "Current Employment Statistics Survey," <https://www.bls.gov/ces/>.

³ Virginia Economic Development Partnership database of assisted and unassisted new jobs announced since 2022.

⁴ U.S. Census Bureau, "State to State Migration Flows," <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/state-to-state-migration.html>.

⁵ Chmura Economics, "Housing as an Economic Development Strategy for Virginia," virginiahousing.com.

⁶ Virginia REALTORS, "Virginia Home Sales Report: September 2024" virginiarealtors.org/research/reports:

⁷ The Pew Charitable Trusts, "How Restrictive Zoning in Virginia Has Hurt Housing Affordability," <https://www.pewtrusts.org/en/research-and-analysis/articles/2024/01/22/how-restrictive-zoning-in-virginia-has-hurt-housing-affordability>.

⁸ National Association of Homebuilders, "Material Costs Affect Housing Affordability," <https://www.nahb.org/advocacy/top-priorities/material-costs>; Federal Reserve Bank of St. Louis, "Producer Price Index by Commodity: Inputs to Industries: Net Inputs to Residential Construction, Goods," <https://fred.stlouisfed.org/series/WPU1P2311001>.

⁹ U.S. Consumer Financial Protection Bureau, "Data Spotlight: The Impact of Changing Mortgage Interest Rates," <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-the-impact-of-changing-mortgage-interest-rates/>; Federal Reserve Bank of St. Louis, "30-Year Fixed Rate Mortgage Average in the United States," <https://fredstlouisfed.org/series/MORTGAGE30US>.

¹⁰ CoreLogic MarketTrends, <https://www.corelogic.com/real-estate/housing-trends/>.

¹¹ Analysis performed by the Department of Housing and Community Development utilizing data from CoreLogic, the American Community Survey, and Comprehensive Housing Affordability Survey.

¹² Analysis performed by the Department of Housing and Community Development utilizing data from sources including CoreLogic, the American Community Survey, and Comprehensive Housing Affordability Survey.

¹³ Analysis performed by the Department of Housing and Community Development.

¹⁴ Virginia Department of Environmental Quality, "Virginia Permit Transparency and Permitting Enhancement and Evaluation Platform," <https://www.deq.virginia.gov/get-involved/virginia-permit-transparency-and-permitting-enhancement-and-evaluation-platform>.

¹⁵ Data from Virginia Office of Broadband.

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.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY

Title of Document: [Circular Letter 24-01: Charitable Donations.](#)

Public Comment Deadline: January 1, 2025.

Effective Date: January 2, 2025.

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: [Plan First Manual - Chapter 4.](#)

Public Comment Deadline: January 1, 2025.

Effective Date: January 2, 2025.

Agency Contact: Emily McClellan, Policy Division Director, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-4300, or email emily.mcclellan@dmas.virginia.gov.

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies had previously identified these documents as certified guidance documents, pursuant to § 2.2-4002.1 of the Code of Virginia. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to view the deleted document and comment. This information is also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact.

STATE AIR POLLUTION CONTROL BOARD

Titles of Documents: [Data Disk Procedures and Vehicle Inspection Report Voiding Process.](#)

[Memorandum of Agreement between the Department of Mines, Minerals, and Energy and the Department of Environmental Quality.](#)

[PM 10 Sampler Standard Operating Procedure.](#)

[Professional Responsibilities and Conduct of Mobile Source Operations Staff.](#)

[Quality Assurance Project Plan for the Carbon Monoxide Ambient Air Monitoring Program.](#)

[Quality Assurance Project Plan for the Carbon Monoxide Ambient Air Monitoring Program - Appendices.](#)

[Quality Assurance Project Plan for Lead-TSP Ambient Air Monitoring Program.](#)

[Quality Assurance Project Plan for Lead-TSP Ambient Air Monitoring Program - Appendices.](#)

[Quality Assurance Project Plan for the Nitrogen Oxides Ambient Air Monitoring Program.](#)

[Quality Assurance Project Plan for the Nitrogen Oxides Ambient Air Monitoring Program - Appendices.](#)

[Quality Assurance Project Plan for the Ozone Ambient Air Monitoring Program.](#)

[Quality Assurance Project Plan for the PM2.5 Ambient Air Monitoring Program.](#)

[Quality Assurance Project Plan for the Sulfur Dioxide Ambient Air Monitoring Program.](#)

[Quality Assurance Project Plan for the Sulfur Dioxide Ambient Air Monitoring Program - Appendices.](#)

[Sample MACT Place Holder Conditions.](#)

Public Comment Deadline: January 1, 2025.

Effective Date: January 2, 2025.

Agency Contact: Sam Jasinski, Policy Specialist, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-2655, or email samuel.jasinski@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Title of Document: [Memorandum of Agreement between the Department of Mines, Minerals, and Energy and the Department of Environmental Quality.](#)

Public Comment Deadline: January 1, 2025.

Effective Date: January 2, 2025.

Agency Contact: Sam Jasinski, Policy Specialist, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-2655, or email samuel.jasinski@deq.virginia.gov.

DEPARTMENT OF STATE POLICE

Title of Document: [Community Policing Data Instructions and Technical Specification 5.3 with Form.](#)

Public Comment Deadline: January 1, 2025.

Effective Date: January 2, 2025.

Agency Contact: Thomas Lambert, Director, Office of Legal Affairs, Virginia State Police, Virginia State Police Headquarters, 7700 Midlothian Turnpike, Suite 1200, Chesterfield, VA 23235, telephone (804) 674-6722, or email tom.lambert@vsp.virginia.gov.

STATE WATER CONTROL BOARD

Titles of Documents: [Implementation Guidance for July 2000 Revisions to the VPDES Permit Regulation.](#)

[Implementation Guidance for December 2000 Revisions to the VPDES Permit Regulation.](#)

[Interpretation for Water Monitoring of GM00-2016 - Chain of Custody Policy and Procedures - Amendment 1.](#)

[Permitting Strategy for Wood Preserving Operations.](#)

[Permitting Strategy for Wood Preserving Operations - Amendment 1.](#)

Public Comment Deadline: January 1, 2025.

Effective Date: January 2, 2025.

Agency Contact: Nelson Daniel, Water Policy Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1752, or email nelson.daniel@deq.virginia.gov.

GENERAL NOTICES

STATE BOARD OF EDUCATION

Revisions to the Science Standards of Learning Available for Public Review

The Department of Education is finalizing the 2025 Science Standards of Learning expansion process that focus on secondary science courses for use in public schools. The State Board of Education intends to conduct an initial review of the 2025 Science Standards of Learning at its December 2024 meeting. The 2025 Science Standards of Learning will be made available for public review and comment via the department's website. The board expects to take final action on the proposed 2025 Science Standards of Learning at its February 2025 meeting. Additional information is available at <https://www.doe.virginia.gov/teaching-learning-assessment/instruction/science>.

Contact Information: 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.

Finalized 2023 Mathematics Essentialized Standards of Learning Available for Public Review

The Department of Education is finalizing the 2023 Mathematics Essentialized Standards of Learning process. The Mathematics Essentialized Standards of Learning serve as alternate academic achievement standards for students with the most significant cognitive disabilities. The State Board of Education intends to conduct an initial review of the 2023 Mathematics Essentialized Standards of Learning at its December 2024 meeting. The 2023 Mathematics Essentialized Standards of Learning will be made available for public review and comment via the department's website. The board expects to take final action on the proposed 2023 Mathematics Essentialized Standards of Learning at its February 2025 meeting. Additional information is available at <https://www.doe.virginia.gov/teaching-learning-assessment/student-assessment/virginia-sol-assessment-program/virginia-alternate-assessment-program-vaap>.

Contact Information: 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 ENVIRONMENTAL QUALITY

Amelia Energy Facility LLC Notice of Intent for a Small Renewable Energy Project (Solar) - Amelia County

Amelia Energy Facility LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a 106-megawatt alternating current small renewable energy project (solar) in Amelia County, Virginia, pursuant to 9VAC15-60. The project name is Amelia Solar Buckskin Road Solar Project, and the developer is Torch Clean Energy. The DEQ project number is RE0000334. The Amelia Solar Buckskin Road Solar Project will be located at 5540 – 5300 Buckskin Creek Road, Jetersville, Virginia, with a geographic information system (GIS) centroid of Latitude 37.279089, Longitude -78.039358. The project will encompass approximately 1,100 acres with a disturbance zone of up to 750 acres with approximately 195,000 photovoltaic modules.

Contact Information: Amber Foster, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 774-8474, email amber.foster@deq.virginia.gov.

Withdrawn - Notice of Intent for a Small Renewable Energy Project (Solar) - Isle of Wight County

The notice of intent submitted March 29, 2016, by Ecoplexus Inc. for Smithfield Solar Farm, a planned 14-megawatt project on a 122-acre parcel located in Isle of Wight County, was withdrawn on October 30, 2024. The DEQ project number was RE0000009. The notice of intent was posted to the Virginia Regulatory Town Hall on March 30, 2016, and published in the Virginia Register of Regulations on May 2, 2016.

Contact Information: Matthew Snow, Small Renewable Energy Permit by Rule Program Specialist, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 718-9569, or email matthew.a.snow@deq.virginia.gov.

Proposed Enforcement Action for US Infra Rehab Services LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for US Infra Rehab Services LLC for violations of State Water Control Law and regulations in Roanoke County. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written comments from December 2, 2024, to January 1, 2025.

Contact Information: Kristen Sadtler, Enforcement Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, or email kristen.sadtler@deq.virginia.gov.

Opportunity for Public Comment - Cleanup Study for James, Maury, and Jackson Rivers

Purpose of Notice: The Department of Environmental Quality (DEQ) seeks public comment on edits to a draft cleanup study, also known as a total maximum daily load (TMDL) report, for the James, Maury, and Jackson Rivers in Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Buckingham, Campbell, Chesterfield, Craig, Cumberland, Fluvanna, Giles, Goochland, Greene, Hanover, Henrico, Highland, Montgomery, Nelson, Powhatan, and Roanoke Counties and Buena Vista, Charlottesville, Covington, Lexington, Lynchburg, and Richmond Cities.

At the final public meeting on February 15, 2024, DEQ presented the results of the study and provided an overview of the draft report. In response to feedback received, changes have been made to polychlorinated biphenyls (PCB) baseline loads and wasteload allocations (WLAs), as well as other components of the document. This notice is to invite citizens to provide comment on the revised study. This project affects streams located within the territories of DEQ's Blue Ridge, Valley, and Piedmont Regional Offices. These streams are listed as impaired since monitoring data does not meet Virginia's water quality standards for PCBs in fish tissue. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law require DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. A component of a cleanup study is the WLA; therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Code of Virginia for adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of the WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) permit in the James, Maury, and Jackson Rivers watersheds.

Cleanup Study Location: The study area totals 4,342,969 acres (approximately 6,786 square miles), and consists of four TMDL watersheds, the Jackson River, Maury River, Upper James River study area (from the head of the James near Iron Gate to the Bent Creek confluence), and Lower James River study area (from the Bent Creek confluence to I-95 James River Bridge in Richmond).

Public Comment Period: December 2, 2024, to January 6, 2025.

How to Comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing addresses, and telephone numbers of the commenter or requester.

Contact Information: Karen Kline, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russel Drive, Salem, VA 24153, telephone (540) 676-5573, or email karen.kline@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Public Comment Period - § 1115 Demonstration Waiver Amendment

Pursuant to 42 CFR § 431.408, notice is hereby given that the Department of Medical Assistance Services (DMAS) is seeking to amend its Medicaid § 1115 demonstration waiver entitled "Building and Transforming Coverage, Services, and Supports for a Healthier Virginia" and submit the amendment to the Centers for Medicare and Medicaid Services (CMS) December 2024.

DMAS is providing an opportunity for the public to review and provide input on the demonstration amendment application through December 11, 2024.

The current demonstration is scheduled to expire on December 31, 2024, and a renewal application to extend the current demonstration for five years was submitted to CMS on August 2, 2024. The current § 1115 demonstration waiver, as well as the renewal application submitted to CMS, includes two programs. The two current components of the § 1115 demonstration waiver are the substance use disorder (SUD) institutes of mental disease (IMD) and Former Foster Care Youth (FFCY) programs. With this amendment application, Virginia seeks waiver authority for serious mental illness (SMI) IMD coverage in response to an opportunity announced to states via a State Medicaid Director letter in 2018.

The full public notice and draft amendment application are available at <https://dmas.virginia.gov/about-us/1115-demonstration-waiver/>. View the public notice at https://www.dmas.virginia.gov/media/jjbpbyw/smi-1115-long-notice_v3.pdf. View the draft amendment application at https://dmas.virginia.gov/media/mp5jmdoz/smi_1115_waiver_draft_11_7_24.pdf. DMAS will also send the notice out to an electronic list of over 200,000 providers, members, and stakeholders. Public comment may be submitted via the Virginia Regulatory Town Hall at <https://townhall.virginia.gov/L/Forums.cfm>. Comments must be received no later than 11:59 p.m. on December 11, 2024.

DMAS will hold a public hearing where verbal or written public comments can be submitted. All verbal public comments should be limited to two minutes each. Here is the information to participate in the public hearing:

Board of Medical Assistance Services Meeting, Tuesday, December 10, 2024, 10:00 a.m. to noon.

In-person attendance: Conference Rooms 102 A and B, 600 East Broad Street, Richmond, VA 23219.

Virtual Attendance:

<https://covaconf.webex.com/covaconf/j.php?MTID=m84dcab39c35d54a04fd706b0bf1ac836>.

General Notices

After considering public comments about the proposed demonstration amendment application, DMAS will make final decisions about the demonstration and submit a revised application to CMS. Additional information about this demonstration is also available on the CMS website at <https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html>.

Contact Information: Lisa Jobe-Shields, Director, Behavioral Health Division, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 814-9216, or email lisa.jobe-shields@dmass.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.