



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 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>).

April 2026 through May 2027

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
42:18	April 1, 2026	April 20, 2026
42:19	April 15, 2026	May 4, 2026
42:20	April 29, 2026	May 18, 2026
42:21	May 13, 2026	June 1, 2026
42:22	May 27, 2026	June 15, 2026
42:23	June 10, 2026	June 29, 2026
42:24	June 24, 2026	July 13, 2026
42:25	July 8, 2026	July 27, 2026
42:26	July 22, 2026	August 10, 2026
43:1	August 5, 2026	August 24, 2026
43:2	August 19, 2026	September 7, 2026
43:3	September 2, 2026	September 21, 2026
43:4	September 16, 2026	October 5, 2026
43:5	September 30, 2026	October 19, 2026
43:6	October 14, 2026	November 2, 2026
43:7	October 28, 2026	November 16, 2026
43:8	November 10, 2026 (Tuesday)	November 30, 2026
43:9	November 23, 2026 (Monday)	December 14, 2026
43:10	December 9, 2026	December 28, 2026
43:11	December 21, 2026 (Monday)	January 11, 2027
43:12	January 5, 2027 (Tuesday)	January 25, 2027
43:13	January 20, 2027	February 8, 2027
43:14	February 3, 2027	February 22, 2027
43:15	February 17, 2027	March 8, 2027
43:16	March 3, 2027	March 22, 2027
43:17	March 17, 2027	April 5, 2027
43:18	March 31, 2027	April 19, 2027
43:19	April 14, 2027	May 3, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Agency Decision

Title of Regulation: 18VAC60-21. Regulations Governing the Practice of Dentistry.

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

Name of Petitioner: Alayna Smiley, MD, DMD.

Nature of Petitioner's Request: The petitioner requests that the Board of Dentistry amend 18VAC60-21-350 and 1860-21-370 to exempt oral and maxillofacial surgeons who perform non-surgical cosmetic procedures from (i) the requirement for American Board of Oral and Maxillofacial Surgery board eligibility or certification and (ii) the requirement to hold active hospital privileges.

Agency Decision: Request granted.

Statement of Reason for Decision: At its meeting on March 6, 2026, the board voted to accept the petition and initiate rulemaking.

Agency Contact: Jamie Sacksteder, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4581, or email jamie.sacksteder@dhp.virginia.gov.

VA.R. Doc. No. PFR26-14; Filed December 9, 2025, 12:51 p.m.

BOARD OF COUNSELING

Initial Agency Notice

Title of Regulation: 18VAC115-20. Regulations Governing the Practice of Professional Counseling.

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

Name of Petitioner: Arthur Branner.

Nature of Petitioner's Request: The petitioner requests that the Board of Counseling permit hours worked under supervision as a qualified mental health professional to be credited toward the residency requirements for licensed professional counselor licensure.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on April 6, 2026. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which opens April 6, 2026, and closes May 6, 2026. The board will consider the petition and all comments in support or opposition

at the next meeting after the close of public comment, currently scheduled for July 17, 2026.

Public Comment Deadline: May 6, 2026.

Agency Contact: Maria S. Stransky, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4610, or email maria.stransky@dhp.virginia.gov.

VA.R. Doc. No. PFR26-26; Filed March 16, 2026, 11:05 a.m.

BOARD OF VETERINARY MEDICINE

Agency Decision

Title of Regulation: 18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.

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

Name of Petitioner: Deanna Smith.

Nature of Petitioner's Request: The petitioner requests that the Board of Veterinary Medicine amend 18VAC150-20 to include a requirement for veterinarians to check all animals for a microchip before starting treatment.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on March 4, 2026, the board voted to deny the petition based on the difficulty to implement such a requirement for practitioners, the overly burdensome impact on practitioners, and the potential delay in care to animals due to a requirement to scan for a chip and attempt to locate an owner in an emergency situation.

Agency Contact: Kelli Moss, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4133, fax (804) 767-1011, or email kelli.moss@dhp.virginia.gov.

VA.R. Doc. No. PFR26-12; Filed October 27, 2025, 1:59 p.m.

REGULATIONS

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

Symbol Key

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

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

REGISTRAR'S NOTICE: The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act in accordance with § 3.2-703 of the Code of Virginia, which exempts quarantine to prevent or retard the spread of a pest into, within, or from the Commonwealth.

Title of Regulation: **2VAC5-332. Rules and Regulations for the Enforcement of the Virginia Tree and Crop Pests Law - Box Tree Moth Quarantine (adding 2VAC5-332-10 through 2VAC5-332-130).**

Statutory Authority: § 3.2-703 of the Code of Virginia.

Effective Date: March 11, 2026.

Agency Contact: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, fax (804) 371-7793, TDD (800) 828-1120, or email david.gianino@vdacs.virginia.gov.

Background: The box tree moth is an invasive pest that can significantly damage or kill boxwood species. Pursuant to § 3.2-703 of the Code of Virginia, the Commissioner of Agriculture and Consumer Services established a temporary Box Tree Moth Quarantine on December 3, 2025, in an effort to prevent the artificial spread of this pest and protect Virginia's agricultural and natural resources. The Board of Agriculture and Consumer Services held a public hearing on December 11, 2025, as required by § 3.2-703 of the Code of Virginia.

Summary:

The action (i) establishes the quarantined areas as the City of Winchester and the Counties of Clarke and Frederick; (ii) establishes regulated articles, which are articles that pose a risk for spreading the box tree moth and are subject to the provisions of the regulation; (iii) restricts the movement of articles that are capable of transporting the box tree moth to slow the rate at which the box tree moth spreads to areas of the Commonwealth currently not infested with box tree moth; (iv) requires a person moving a regulated article from a quarantined area in Virginia to have a permit issued by the Virginia Department of Agriculture and Consumer Services or a

certificate issued in accordance with a compliance agreement; and (v) prohibits regulated articles from entry into the nonregulated areas of the Commonwealth unless a certificate or permit indicating that the article is free from the box tree moth has been issued.

Chapter 332

Rules and Regulations for the Enforcement of the Virginia Tree and Crop Pests Law - Box Tree Moth Quarantine

2VAC5-332-10. Declaration of quarantine.

A quarantine is hereby established to restrict the movement of certain articles capable of transporting the box tree moth from regulated areas to unregulated areas of the Commonwealth.

2VAC5-332-20. Purpose of quarantine.

The box tree moth is an introduced species that is known for ravenous feeding and defoliation of boxwood plants. Given its biology, multiple generations of box tree moth can occur during the growing season, and feeding damage is such that the boxwood plants cannot recover and succumb to the intensive feeding. The box tree moth has become established in portions of the Commonwealth and has the potential to spread to unregulated areas by natural means or through the movement of infested articles. The purpose of this quarantine is to prevent the artificial spread of the box tree moth to unregulated areas of the state by regulating the movement of those articles that pose a significant threat of transporting the box tree moth.

2VAC5-332-30. Definitions.

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

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Box tree moth" means the live insect, in any life stage, known as the box tree moth, *Cydalima perspectalis*.

"*Buxus* spp." means boxwood plants of any species, regardless of cultivar or variety, with the genus name *Buxus*.

"Certificate" means a document issued by the department or another state's regulatory equivalent to a person operating in accordance with a compliance agreement to allow the movement of regulated articles from a regulated area to an unregulated area.

"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services.

"Compliance agreement" means a written agreement between a person engaged in growing, handling, receiving, or moving regulated articles and either (i) the department, (ii) the U.S. Department of Agriculture, or (iii) another state's regulatory equivalent wherein the person agrees to comply with inspection, disinfection, certification, or other requirements necessary to prevent the spread of box tree moth when moving regulated articles originating in a regulated area into an unregulated area of Virginia.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Infestation" means the presence of the box tree moth or the existence of signs or symptoms that make it reasonable to believe that the box tree moth is present.

"Inspector" means an employee of the department authorized by the commissioner to enforce the provisions of this quarantine.

"Moved," "move," or "movement" means shipped; offered for shipment; received for transportation; transported; carried; or allowed to be moved, shipped, transported, or carried.

"Permit" means a document issued or authorized by the commissioner or by another state's regulatory equivalent to provide for the movement of regulated articles to restricted destinations for limited handling, utilization, or processing.

"Person" means the term as defined in § 1-230 of the Code of Virginia.

"Regulated area" means a locality of Virginia or another state listed in 2VAC5-322-50.

"Tree and Crop Pests Law" means Chapter 7 (§ 3.2-700 et. seq.) of Title 3.2 of the Code of Virginia.

"Unregulated area" means a locality of Virginia or another state that has not been officially confirmed to have populations of the box tree moth and is not listed in 2VAC5-322-50.

2VAC5-332-40. Regulated articles.

The following articles are regulated under the provisions of this chapter:

1. Box tree moth, *Cydalima perspectalis*, in any living form;
2. The whole plant, plant parts, cuttings, or nursery stock of any living or dead *Buxus* spp. plant, including cut or fallen stems or branches, stumps, stems, roots, branches, leaves, or debris; and
3. Any other article, commodity, item, product, or means of conveyance that an inspector determines (i) presents a risk of spread of the box tree moth or (ii) is infested or susceptible to infestation of the box tree moth.

2VAC5-332-50. Regulated areas.

A. The following areas in Virginia are quarantined for box tree moth:

1. The entire Counties of:

Clarke; and

Frederick.

2. The entire City of:

Winchester.

B. Any area that is subject to a federal box tree moth quarantine, a box tree moth quarantine of another state, or state statute restricting the movement of box tree moth is considered a regulated area for the purposes of this chapter.

2VAC5-332-60. Conditions for the movement of regulated articles.

A. A person may move a regulated article without restriction solely within regulated areas of Virginia.

B. A person may move a regulated article without restriction from an unregulated area to a regulated area of Virginia.

C. A person may move a regulated article from an unregulated area through a regulated area, where the final destination is an unregulated area of Virginia, when:

1. The regulated article is accompanied by a waybill that sets forth the regulated article's point of origin and intended destination; and

2. The regulated article has moved directly through a regulated area without stopping, except for refueling or due to traffic conditions.

D. A person may move a regulated article from an unregulated area to an unregulated area and stop in a regulated area, if the regulated article (i) is safeguarded from infestation by tarping or enclosure and (ii) is not commingled with a regulated article from the regulated area.

E. A person may move a regulated article from a regulated area of Virginia into an unregulated area after obtaining:

1. A certificate issued by the department in accordance with a valid and active compliance agreement with the department; or

2. A permit issued by the department or the commissioner indicating that the regulated article has been inspected and is free from any living stage of the box tree moth and is free from evidence of box tree moth feeding.

F. A person may move a regulated article from a regulated area of another state into an unregulated area of Virginia after obtaining:

1. A certificate issued by (i) the U.S. Department of Agriculture or (ii) another state's regulatory equivalent in

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accordance with a valid and active compliance agreement with the issuing agency, including provisions related to inspection, disinfection, certification, or other requirements as the commissioner deems necessary to effectuate the purposes of this quarantine; or

2. A permit issued by (i) the U.S. Department of Agriculture or (ii) another state's regulatory equivalent.

2VAC5-332-70. Compliance agreements.

A. A person engaged in growing, handling, or moving a regulated article may request a compliance agreement with the department. The department may, in its sole discretion, issue or decline to issue a compliance agreement. Any person operating under a compliance agreement shall comply with the provisions of this chapter and any conditions imposed under the compliance agreement.

B. Once the department approves the compliance agreement, any person operating under a compliance agreement shall follow all prescribed safeguards to scout, trap, treat, and inspect regulated articles, ensuring that the articles are free from the box tree moth, prior to movement out of a regulated area.

C. The department may orally or in writing cancel a compliance agreement when the department finds that a person operating under a compliance agreement has failed to comply with this chapter. If the cancellation is oral, the department shall confirm the cancellation and the reasons for the cancellation in writing to the person who entered into such compliance agreement as promptly as circumstances allow.

2VAC5-332-80. Certificates and permits.

A. The department may issue a certificate or permit for the movement of a regulated article to any destination within Virginia when:

1. The regulated article has been examined by the inspector and found to be apparently free from the box tree moth and there is no evidence of a box tree moth infestation;

2. The regulated article has been grown, produced, stored, or handled in such a manner that, in the judgment of the inspector, would prevent an infestation of box tree moth;

3. The regulated article has received an approved treatment for box tree moth; or

4. The regulated article is to be moved in compliance with conditions deemed necessary under the Tree and Crop Pests Law to prevent the spread of the box tree moth.

B. The department may orally or in writing withdraw any certificate or permit if the department determines that the holder of the certificate or permit has not complied with all conditions for the use of the certificate or permit or with any applicable compliance agreement. If the withdrawal is oral,

the department shall confirm the withdrawal and the reasons for the withdrawal in writing to the certificate or permit holder as promptly as circumstances allow.

2VAC5-332-90. Assembly and inspection of regulated articles.

A. Any person who desires to move a regulated article and is seeking a certificate or permit shall apply for inspection of the regulated article as far in advance as practical, but no fewer than five business days before the regulated article is to be moved.

B. The regulated article must be assembled at the place and in the manner the inspector designates as necessary to facilitate inspection and shall be safeguarded from infestation.

2VAC5-332-100. Attachment and disposition of certificates and permits.

A. During the intrastate movement of a regulated article that requires a certificate or permit to be moved, the certificate or permit must be attached at all times to the outside of the container that contains the regulated article or to the regulated article itself. The requirements of this section may also be met by attaching the certificate or permit to the consignee's copy of the waybill, provided the regulated article is sufficiently described on the certificate or permit and on the waybill to facilitate the identification of the regulated article.

B. The certificate or the permit for the intrastate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article. A copy of the certificate or the permit must be retained by the sender of the regulated article at the place of shipment.

2VAC5-332-110. Inspection and disposal of regulated articles and pests.

Upon presentation of official credentials, an inspector is authorized to stop sale and inspect, and to seize, destroy, require treatment of, or otherwise dispose of or require disposal of regulated articles as provided in the Tree and Crop Pests Law.

2VAC5-332-120. Non-liability of the department.

The department is not liable for any costs incurred by third parties whose costs result from, or are incidental to, inspections, disinfection, certification, or other required actions outlined in a compliance agreement issued under the provisions of this chapter.

2VAC5-332-130. Revocation of quarantine.

This chapter may be revoked by the board when the board is satisfied that the need for this quarantine no longer exists. Such revocation shall become effective upon the date specified by the order of the board that revokes this chapter.

VA.R. Doc. No. R26-8553; Filed March 11, 2026, 11:15 a.m.



TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF JUVENILE JUSTICE

Proposed Regulation

Titles of Regulations: **6VAC35-20. Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (amending 6VAC35-20-69).**

6VAC35-30. Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (amending 6VAC35-30-20, 6VAC35-30-35, 6VAC35-30-40, 6VAC35-30-45, 6VAC35-30-60, 6VAC35-30-70 through 6VAC35-30-110, 6VAC35-30-120 through 6VAC35-30-160, 6VAC35-30-180, 6VAC35-30-190; adding 6VAC35-30-15, 6VAC35-30-42, 6VAC35-30-115, 6VAC35-30-185; repealing 6VAC35-30-10, 6VAC35-30-65).

6VAC35-35. Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (adding 6VAC35-35-10 through 6VAC35-35-100).

6VAC35-101. Regulation Governing Juvenile Secure Detention Centers (amending 6VAC35-101-350).

Statutory Authority: §§ 16.1-309.5, 16.1-309.9, 16.1-322.7, and 66-10 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: June 5, 2026.

Agency Contact: Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice, 600 East Main Street, 20th Floor, Richmond, VA 23219, telephone (804) 807-0486, fax (804) 371-6497, or email kenneth.davis@djj.virginia.gov.

Basis: Section 16.1-309.5 of the Code of Virginia requires the Board of Juvenile Justice to promulgate regulations concerning the Commonwealth's reimbursement to localities for one-half the cost of construction, enlargement, renovation, purchase, or rental of a detention home or other facilities, including establishing criteria for evaluating reimbursement requests and ensuring the geographically equitable distribution of state funds provided for such purpose. Section 16.1-309.9 of the Code of Virginia requires the board to approve minimum standards for the construction and equipment of detention homes or other facilities and authorizes the board to prohibit the placement of juveniles in places of residence that do not comply with these minimum standards. Section 66-10 of the Code of Virginia authorizes the board to promulgate regulations necessary to carry out the provisions of Title 66 of the Code of Virginia and other laws of the Commonwealth.

Purpose: This action is essential to the public welfare because it enhances efficiency for localities altering applicable juvenile facilities. By creating an expedited process for facility projects

with no state funding, the action reduces the burden on existing local resources so that such resources can be better directed to the youth residing in these facilities.

Substance: The proposed amendments (i) add a new chapter, Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (6VAC35-35), to establish a process to address projects for which a locality is not seeking reimbursement from the Commonwealth; (ii) limit the application of the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30) to localities seeking reimbursement or seeking to preserve the option for reimbursement funding; (iii) add a three-year deadline for localities to execute a construction contract after the board approves the locality's planning study; (iv) update and clarify application and review procedures for reimbursement; (v) establish a process for localities pursuing state reimbursement for qualifying emergency maintenance projects; (vi) repeal the current funding formula for determining construction costs; (vii) update the final inspection process; (viii) remove language authorizing reimbursement for privately contracted projects; (ix) set out a process for reimbursements when the request exceeds the previously requested amount; and (x) make technical changes.

Issues: The primary advantage of this action to the public, the agency, and the Commonwealth is that it streamlines and clarifies the process for localities seeking to construct new juvenile residential facilities or modify existing facilities, regardless of whether the state reimburses the locality for the project, which will smooth the path for completion of the project to the benefit of the residents in these facilities and the staff responsible for their care. Eliminating the outdated, prescriptive funding formula on which localities seeking reimbursement base their estimated construction costs will allow the locality greater flexibility in determining construction costs. Allowing localities that forgo the reimbursement process to provide the Department of Juvenile Justice with a project overview, rather than the more detailed statement of need and planning study documents, and permitting the department to remain involved throughout various stages of the project will help ensure that the construction or modification is consistent with industry standards, thereby ensuring the safety of juveniles residing in such facilities. There are no disadvantages to the public, the agency, or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. Pursuant to a 2019 periodic review,² the Board of Juvenile Justice (board) proposes to eliminate outdated provisions, and to simplify practices for all localities engaging in juvenile detention center

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and group home construction, renovation, or enlargement. The board also proposes to create a new regulation (6VAC35-35) to establish a process for localities to plan, design, and construct a juvenile detention facility in cases where they have no intention of seeking state reimbursement.

Background. 6VAC35-30 establishes the processes that must be followed when constructing, renovating, enlarging, or otherwise altering certain facilities. These facilities are locally operated and commission operated juvenile detention centers, and locally or regionally operated juvenile group homes and similar residential facilities that are regulated by the Department of Juvenile Justice (DJJ). Generally, the requirements pertain to prescreening, preliminary design, needs assessment, planning study, funding formula, Governor approval, construction contract, design change orders, monthly inspection and progress reports, and final inspection. Pursuant to the periodic review, the board proposes to eliminate outdated provisions and simplify practices for all localities engaging in such projects; the board also establishes a new regulation (6VAC35-35) to create a process for localities to use when planning, designing, and constructing a new facility in cases where they do not intend to seek reimbursement for such projects through any available mechanisms. This action also makes conforming changes to other related regulations (i.e., 6VAC35-20 and 6VAC35-101). According to DJJ, although the statute requires the Commonwealth to reimburse localities for qualifying projects, the General Assembly has included language in the Appropriation Act since 2003 that prohibits the board from approving funds for state reimbursement of applicable construction, enlargement, or renovation costs for these facilities.³ In essence, 6VAC35-30 requires localities constructing or modifying eligible juvenile facilities to undergo an arduous process involving the completion of reports tied specifically to funding, despite the fact that reimbursement funding available through the mandated process has been frozen for many years, and most localities choose not to avail themselves of mechanisms for state funding. In summary, the board proposes to simplify the regulatory reimbursement process for localities that seek state funding (6VAC35-30); create a new chapter with a simpler process for localities that do not seek state funding (6VAC35-35); and make conforming changes to other related regulatory chapters (i.e., 6VAC35-20 and 6VAC35-101).

Estimated Benefits and Costs. One of the substantive changes the board proposes would eliminate the complex funding formula to calculate estimated construction costs. According to DJJ, eliminating the funding formula would ease the regulatory burden for localities and allow them to work with their architects and engineers to determine construction costs. The funding formula has been a problem for localities because it is prescriptive in nature and has proven to be unreliable. For instance, the formula relies on figures derived from adult facilities, which have different populations and structures than juvenile facilities. Since this change pertains to localities that seek state reimbursement, and this funding has been frozen since 2003, this change may reduce the administrative costs for localities seeking reimbursement and improve the accuracy of cost estimates if and when the funding freeze is eliminated by the General Assembly. The second substantive change would add language describing how the regulation would apply if an exception to the legislative

moratorium occurs although no exception has been granted so far. The Appropriation Act language has frozen funding but at the same time provides the board authority to grant exceptions to address emergency maintenance projects needed to resolve immediate life and safety issues. The current regulation does not address the process to be followed if and when the board grants such an exception, but any emergency projects must also comply with the board standards. Thus, this change is expected to clarify the steps a locality would follow should the board grant an exception. The third proposed change would create a new regulation that establishes a simpler process for projects where the locality is not seeking state reimbursement. Compared to the process used when a locality seeks reimbursement, this new process would be simplified by excluding requirements for a planning study, Governor approval, a construction contract, and monthly inspection or progress reports. According to DJJ, there have been four projects in the past 10 years where the locality was not seeking reimbursement, including one project at Chesapeake juvenile detention center that is now in its early stages; and there have been no such group home projects. Also, a simpler process would mean DJJ would devote fewer resources to the review of unnecessary documents, and would play a diminished role in the review process. Finally, the proposal would make conforming changes to other related regulations (i.e., 6VAC35-20 and 6VAC35-101) to reflect the substantive amendments. In short, DJJ expects the proposal to streamline, clarify, and enhance the efficiency of the process used by DJJ and localities seeking to construct new juvenile residential facilities or modify existing facilities, and allow an expedited process for facility projects with no state funding to reduce the burden on existing local and DJJ resources.

Businesses and Other Entities Affected. The proposed amendments apply to localities constructing, renovating, or enlarging juvenile detention centers, group homes, or similar residential facilities. Because of the statutory moratorium on state funding for such facilities, no such facilities have received state reimbursement since 2003. There have been four locally funded detention center facility projects in Counties of Loudoun and Prince William and Cities of Chesapeake and Bristol and no locally funded group home projects in the past 10 years. No locality appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ The proposal does not increase costs or reduce revenues for localities. Thus, no adverse impact is indicated.

Small Businesses⁶ Affected.⁷ The proposed amendments do not adversely affect small businesses.

Localities⁸ Affected.⁹ The proposed amendments neither introduce costs for localities nor disproportionately affect them. In fact, the proposal would likely reduce the administrative costs associated obtaining a DJJ approval for localities constructing or expanding regulated facilities, regardless of whether or not they seek state funding.

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prior to the placement of residents in the new facility or portion of an existing facility subject to the expansion or renovation.

~~D. E.~~ The director or designee shall consider the request for certification within 60 days of receiving the request and report of the basic audit findings. Actions taken by the director or designee shall be governed by the provisions of 6VAC35-20-100.

6VAC35-30-10. Introduction. (Repealed.)

~~Section 16.1-309.5 of the Code of Virginia requires the Board of Juvenile Justice and the Governor to evaluate all plans for, specifications of, and requests for reimbursement from a locality or localities for the construction, enlargement, purchase, or renovation of projects governed by this chapter. No reimbursements for costs and construction for such projects shall be made unless the plans, specifications, and construction are approved by the board and the Governor in accordance with the provisions contained herein.~~

~~Section 16.1-309.9 of the Code of Virginia further mandates the board to approve minimum standards for the construction and equipment of detention homes and other facilities governed by this chapter. Any such project shall be subject to this regulation and all applicable statutes, regulations, and guidance documents, including, but not limited to, the following:~~

- ~~1. The Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia;~~
- ~~2. The Construction and Professional Services Manual (CPSM), October 2004, issued by the Department of General Services, Division of Engineering and Building;~~
- ~~3. The Step by Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation, March 2001, issued by the Department of Juvenile Justice; and~~
- ~~4. The Agency Procurement and Surplus Property Manual (1VAC30-130), issued by the Department of General Services, Division of Purchases and Supply.~~

~~Such projects are best accomplished as a cooperative venture between a locality or localities and the Department of Juvenile Justice. Using regulations promulgated by the board and by working together as partners from project planning through project construction and program implementation, the locality or localities and the department ensure that the optimum number of children are provided high quality services at a minimum cost to the locality or localities and to the Commonwealth.~~

6VAC35-30-15. Applicability of this chapter.

This chapter applies to projects for which a locality is seeking reimbursement from the Commonwealth currently or for which the locality is seeking to preserve the option to obtain reimbursement in the future either (i) through legislative

enactment or (ii) should funding become available. Projects for which the locality is not seeking reimbursement, either now or in the future, shall be subject to the requirements of Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (6VAC35-35), unless otherwise specified.

Part II

Definitions

6VAC35-30-20. Definitions.

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

"Area allowance per bed" means the gross square footage of the facility divided by the facility's design capacity as provided ~~herein~~ in this chapter.

"Board" means the ~~Virginia~~ Board of Juvenile Justice.

~~"Board approved funding formula" means the method by which construction costs are calculated as provided for in 6VAC35-30-65.~~

"Board regulation" means a regulation or section or subsections ~~thereof~~ of the regulation promulgated and approved by the board.

"Construction" means the act or process of erecting a new facility or replacing an outdated existing facility. For purposes of this definition, construction does not include enlargement, expansion, or renovation of an existing facility.

"Construction and Professional Services Manual" or "CPSM" means the manual issued by the Commonwealth of Virginia's Department of General Services Division of Engineering and Building that sets forth the standards, policies, terms, conditions, and procedures that state agencies and institutions must follow in procuring professional design and construction services.

"Day" means calendar day unless otherwise specified.

"Department" ~~or "DJJ"~~ means the Department of Juvenile Justice.

"Efficiency ratio" means the proportion of a building's net usable area to its gross floor area.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Enlargement" or "expansion" means the expansion of an existing facility through the erection of additional areas as may be determined by need or as required by law or regulation.

"Local facility" or "facility" means a juvenile residential facility that is or ~~may~~ will be regulated by the board and is owned, maintained, or operated by any political subdivision or combination of political subdivisions of the Commonwealth,

or a privately owned or operated juvenile residential facility that has contracted with any political subdivision or combination of political subdivisions of the Commonwealth and is or ~~may~~ will be regulated by the board.

"Needs assessment" means an evaluation of trends and factors at the local or regional level that may affect current and future local facility needs and the assessment of local facilities and nonresidential programs available to meet such needs. ~~The needs assessment for each proposed project shall identify the target population, the specific need of the target population the project is seeking to address, why the specific need cannot be met with existing resources, all alternatives considered to meet identified need, and the reason for rejecting the alternatives.~~

"Planning study" means an overall description of a proposed project consisting of ~~new~~ construction, renovation of existing facilities, or both. ~~The planning study shall include a program description and a program design as detailed in approved department procedures, architectural and engineering drawings at the Schematic Design (15%) Document level, the relationship of the project to existing facilities or structures, the project's schedule, a detail of the project's total projected design, construction, operation, maintenance costs, and a cost/benefit analysis.~~

"Project" means any proposed or actual ~~new~~ construction, renovation, enlargement, or expansion of a juvenile residential facility that is or will be subject to approval by the department or ~~regulation~~ by the board regulation.

"Renovation" means the alteration or other modification of an existing facility or piece of equipment for the purpose of changing the use or capability of such facility or equipment as may be determined by need or required by law or regulation. For purposes of this definition, renovation does not include work on or replacement of a facility or equipment that generally may be associated with normal wear and tear and included in routine maintenance.

"Routine maintenance" means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a local facility or equipment.

"Sponsor" means a city, county, commission, or any combination ~~thereof~~ of these entities, or any private entity under contract or arrangement with ~~any~~ a city, county, commission, or any combination ~~thereof~~ of these entities, that is actually building, renovating, expanding, or operating or proposing to build, renovate, expand, or operate a local facility.

"Substantive change" means any deviation from an approved plan or design that will affect the operational and functional performance of the facility, that potentially impacts the facility's compliance with any board regulation, that would result in a change in capacity, or that would result in the sponsor seeking additional reimbursement, ~~as detailed in approved department procedures.~~

"Written" means the required information is communicated in writing either in hard copy or electronic form.

Part ~~III~~ II

Procedures Reimbursement Request Process

6VAC35-30-35. Prescreening.

A. ~~Any~~ A sponsor planning ~~any~~ a construction, renovation, enlargement, or expansion of a local facility and seeking state reimbursement in accordance with § 16.1-309.5 of the Code of Virginia shall submit an initial ~~writing~~ written request to the department that shall include ~~a graphic showing any proposed structural changes and a brief description of the project, including all operating capacity or programmatic changes to be accommodated by the structure, and a graphic showing the proposed structural changes if available.~~ The department shall review the initial ~~writing~~ written request, determine the appropriate classification in accordance with subsection B of this section, and ~~inform~~ provide a written notification to the sponsor in writing as to whether the project is subject to this regulation chapter as soon as practicable but no later than 30 days ~~from the receipt of~~ after receiving the initial ~~writing request~~ from the sponsor. If the department fails to respond in the required ~~time frame~~ timeframe, the sponsor may proceed with the reimbursement request in accordance with this chapter.

B. ~~Any request~~ The department shall be determined to be in one determine under which of the following categories the request falls:

1. ~~For any new construction, change~~ Projects subject to this entire chapter. Construction, enlargement, or modification other modifications of an existing local facility or piece of stationary equipment, including security-related security-related upgrades, for which the sponsor seeks reimbursement and that will affect the facility's compliance with a board regulation; result in a change in certification or licensure status; or result in increased square footage, bed space, or capacity shall be subject to this ~~regulation chapter~~.

2. Projects subject to 6VAC35-30-180. For any each facility enhancements enhancement not provided for in subdivision 1 of this subsection for which the sponsor seeks reimbursement, the sponsor shall submit to the board for approval a project overview ~~and cost estimates to the board for approval and~~ that includes a brief description of the project, a justification for why the project is necessary, and any other pertinent information, as well as an estimate of the total projected cost of the project. The project shall be subject to the requirements of 6VAC35-30-180. The department and board may require additional documentation.

3. ~~Minor changes, such as routine maintenance, This category shall not be subject to this regulation and shall be managed informally in accordance with department procedures apply to construction projects.~~

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C. A sponsor shall not be required to comply with the requirements of this section for the following projects:

1. Routine maintenance projects and other projects that involve minor changes to the facility; and
2. Projects for which the locality is not seeking reimbursement now or in the future. These projects shall be subject to the requirements of Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (6VAC35-35).

6VAC35-30-40. Reimbursement request deadlines.

A. ~~Requests.~~ For all projects subject to all or a portion of this regulation chapter, classified in accordance with 6VAC35-30-35 B 1 and B 2, the department shall advise the sponsor or the sponsor's designated representative of the deadline for submissions necessary to obtain approval; (i) from the board; (ii) for inclusion in the department's budget request to the Governor, if applicable; and (iii) for consideration during the next General Assembly session, if applicable.

B. ~~Needs assessment.~~ The sponsor shall, prior to the applicable deadline, submit a needs assessment that shall demonstrate the need for the particular service, program, or facility. The board shall consider the needs assessment at its next regularly scheduled meeting and shall approve, reject, or return the needs assessment.

1. If the needs assessment is approved by the board, the department shall advise the sponsor of the board's decision and of the deadline for submitting the planning study for the project.
2. If the needs assessment is returned to the sponsor, the board shall provide the sponsor with additional factors to be considered prior to resubmission.
3. The department shall advise the sponsor of the board's decision, in writing, within seven business days of the board's decision.

C. ~~Planning study.~~ The sponsor shall, upon approval of the needs assessment by the board and prior to the applicable deadline, submit a complete planning study that shall explain how the proposed project is the most appropriate and cost-effective response to the specific need identified in the needs assessment.

1. The planning study shall be accompanied by an estimate of the total amount of reimbursement to be requested and a resolution from the governing body of the sponsor or sponsors requesting reimbursement.
2. The board shall consider the planning study at its next regularly scheduled meeting and shall utilize the criteria outlined in 6VAC35-30-60 when reviewing a sponsor's planning study and accompanying materials. Upon approval of a planning study, the board shall recommend the amount of state reimbursement for the project and shall forward the

~~sponsor's submissions and the board's recommendation to the Governor or the Governor's designee for approval.~~

~~3. Requests for regional facilities shall also include a copy of the agreement between the participating localities including the allocation of financial and operational responsibilities.~~

6VAC35-30-42. Needs assessment and planning study requirements.

A. Prior to the applicable deadline, for all projects classified under 6VAC35-30-35 B 1, the sponsor shall submit a needs assessment that shall demonstrate the need for the particular service, program, or facility and that shall include the following information:

1. The target population the project is seeking to impact;
2. The specific need of the target population the project is seeking to address;
3. An explanation as to why the specific need cannot be met with existing resources;
4. All alternatives considered to meet the identified need; and
5. The reason for rejecting the alternatives.

B. The department shall have a maximum of 45 days from receipt of the needs assessment to conduct a review of the assessment and to notify the sponsor regarding next steps.

C. The board shall consider the needs assessment submitted in accordance with subsection A of this section as soon as practicable following the department's review and shall approve, reject, or return the needs assessment.

1. If the board approves the needs assessment, the department shall advise the sponsor of the board's decision and of the project's approved advancement to the planning study phase pending the Governor's approval.
2. If the board elects to return the needs assessment to the sponsor, the board shall provide the sponsor with additional factors to be considered prior to resubmission.
3. The department shall advise the sponsor of the board's decision within 10 days and provide a written record upon adoption of the applicable board minutes.

D. Upon the board's approval of the needs assessment and before the applicable deadline, the sponsor shall submit to the department a complete planning study that shall explain why the proposed project is the most appropriate and cost-effective response to the specific need identified in the needs assessment.

1. The planning study shall include a program description; project description; architectural and engineering drawings at the Schematic Design Document level; an explanation of the relationship of the project to existing facilities or

structures; the project's schedule; a detail of the project's total projected design, construction, and operation cost, including personnel and maintenance costs; and a cost-benefit analysis.

2. The planning study shall be accompanied by an estimate of the total amount of reimbursement to be requested in accordance with § 16.1-309.5 of the Code of Virginia and a resolution from the governing body of the sponsor requesting reimbursement.

3. Requests for regional facilities also shall include a copy of the agreement between the participating localities that addresses how financial and operational responsibilities are allocated.

4. When submitting the planning study for review, a sponsor may request to receive portions of the total project reimbursement based upon the completion of the project in phases.

5. The board shall consider the planning study as soon as reasonably practicable following the department's review and shall utilize the criteria outlined in 6VAC35-30-60 when reviewing the planning study and accompanying materials. Upon approval of a planning study, the board shall recommend the amount of state reimbursement for the project in accordance with § 16.1-309.5 of the Code of Virginia and shall forward the sponsor's submissions and the board's recommendation to the Governor or the Governor's designee for approval.

6VAC35-30-45. Effect of legislative moratorium.

A. ~~In such times when~~ If the Virginia General Assembly has imposed a moratorium on ~~construction and~~ reimbursement of construction costs, the sponsor shall follow the requirements of this chapter in order to preserve the option to seek reimbursement in the future.

B. To obtain ~~any~~ reimbursement ~~thereafter~~, the sponsor shall may:

1. Pursue a legislative exception to the moratorium on ~~construction and~~ reimbursement of construction costs; or

2. Request reimbursement ~~at such time as~~ when the Virginia General Assembly authorizes funding for such projects.

C. If, through an Appropriations Act, the Virginia General Assembly permits an exception to the legislative moratorium established in subsection A of this section for the reimbursement of funds used for emergency maintenance projects necessary to resolve immediate life safety issues in a juvenile residential facility, and a sponsor seeks reimbursement in accordance with the Appropriations Act, the following requirements shall apply:

1. The sponsor shall initiate the reimbursement process by complying with the prescreening requirements in 6VAC35-30-35 and shall be subject to any additional regulatory

requirements contained in this chapter, based upon the category under which the project falls:

2. Eligibility for reimbursement shall be contingent upon approval by the board and the Secretary of Public Safety and Homeland Security; and

3. If the board votes to approve the exception, it shall adopt an emergency resolution authorizing the exception. The resolution shall provide that reimbursement is subject to the availability of funds and approval by the General Assembly at its next regular session.

6VAC35-30-60. Criteria for board funding recommendation.

A. Demonstrated need. The board shall evaluate the need for the project as demonstrated by the information provided in the ~~Needs Assessment~~ needs assessment and ~~Planning Study~~ planning study.

B. Operational cost efficiency. The board shall take into consideration the operational cost efficiency of the facility's interior design of the facility with special concern for attention to the number of staff required, functional layout, material selection, and energy efficiency, ~~with~~ and special emphasis on meeting the needs of youth and the mission of the facility.

C. Construction cost. All sponsors shall calculate construction costs ~~in accordance with the funding formula provided in 6VAC35-30-65.~~ Construction economy shall be reviewed in relation to the adjusted median cost of local facilities and provide documentation of the methodology.

D. ~~Board review~~ Economy of construction costs. The ~~economy of construction cost is necessary and~~ board shall be reviewed as follows consider the economy of construction costs in accordance with the following:

1. ~~Review~~ Construction economy may be questioned and reviewed in relation to comparable projects within the last five years.

2. Economy of construction cost shall be reviewed for efficiency.

a. Projects or portions of projects involving renovation of existing facilities shall be reviewed ~~in relation to the~~ for maximum efficiency. The board shall review the efficiency of the renovated spaces, the appropriateness of the proposed changes for the population served, and the relationship of the changes to the ~~project of facility as a whole, and whether the proposed changes are consistent with federal and state statutes and regulations.~~

b. ~~Projects of new construction~~ Construction projects shall be reviewed for the building's appropriate efficiency ratio. The board may request further information from the sponsor on projects with a building's efficiency ratio of less than 65%.

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~~2. 3.~~ The board may adjust the ~~amount being requested approved project cost eligible~~ for reimbursement ~~funding~~ as follows:

- a. A ~~reduction~~ decrease in ~~funding~~ the estimated project cost when functional areas of the facility, such as the kitchen, recreation area, educational facilities, visiting area, ~~and~~ or laundry facilities are not included in the project or are included at a size not in conformance with applicable regulations or normal practice;
- b. An increase in ~~funding~~ the estimated project cost when support services areas are proposed at sizes larger than necessary in anticipation of future enlargements or expansions of the facility;
- c. A decrease in ~~funding~~ the estimated project cost when the building's efficiency ratio is less than 65%; and
- d. An increase in ~~funding~~ the estimated project cost when the facility includes areas for extraordinary program activities.

~~3. Any adjustments made by the board in funding shall be based upon the gross square footage of the various conditions multiplied by a cost equal to the adjusted median cost or the proposed gross square foot cost of the facility, whichever is less.~~

E. ~~Phased reimbursement of projects. A sponsor~~ The board may approve a sponsor's request, when submitting the planning study for review, to receive portions of the total project reimbursement based upon the completion of the project in phases. In response to such requests, the board may approve reimbursement based on the total estimated cost of the project as if it were to be completed as a single endeavor instead of a single payment; however, reimbursement payments will be in amounts proportional to the phases of construction and payment will be made only as each approved phase is completed and that portion of the building is ready to be placed in service.

6VAC35-30-65. Funding formula. (Repealed.)

~~A. The following funding formula shall be used to calculate estimated construction costs at the Schematic Design (15%) Documents level in the planning study phase:~~

~~1. A cost per square foot base figure shall be the national median square foot cost for jails published in the 24th annual edition of R. S. Means Facilities Construction Cost Data 2009 (Means) with consideration taken of the "location factor," which is the materials and labor cost differential specific to the project's geographical location.~~

~~2. The cost per square foot, adjusted using the location factor, must be in accordance with all applicable codes and standards and in accordance with the following formula:~~

~~National cost per square foot (from Means)~~

~~X Location Factor (from Means)~~

~~X Area allowance per bed (as provided for in subsection B of this section)~~

~~= Adjusted median construction cost of local facility.~~

~~3. The total project cost shall include:~~

~~a. Construction cost;~~

~~b. Site and utilities (from Means);~~

~~c. Architectural and Engineering services (services as defined in the Construction and Professional Services Manual (CPSM));~~

~~d. Furnishing and equipment (as itemized by the sponsor);~~

~~e. Project inspection (services as defined in the CPSM);~~

~~f. Contingency (10.0%);~~

~~g. Inflation factor (yearly market inflation rate applied from January 1 of the year of the submitted design through the midpoint of construction, compounded);~~

~~h. Property purchased specifically for this facility; and~~

~~i. Other.~~

~~B. The following area allowances per bed shall be used to calculate the adjusted median construction cost of a local facility:~~

~~1. A maximum of 700 square feet per bed for facilities up to 35 residents;~~

~~2. A maximum of 650 square feet per bed for facilities of 36 to 79 residents; and~~

~~3. A maximum of 550 square feet per bed for facilities with 80 or more residents.~~

6VAC35-30-70. Funding priorities.

~~The board shall prioritize reimbursement requests in a manner to ensure that ensures an equitable distribution of state funds across the Commonwealth; and, absent. Absent a health, safety, or welfare risk requiring priority, the board shall ordinarily give preference to requests for reimbursement for regionalized local facilities. Regionalized local facilities shall normally serve three or more localities as determined by demonstrated in the needs assessment.~~

6VAC35-30-80. Board recommendations to the Governor.

A. The department shall ~~notify~~ provide a written notification to the sponsor in writing within ~~seven business~~ 10 days of the board's decision to recommend or ~~not decline~~ to recommend a project for reimbursement. If the ~~recommendation is not~~ board declines to recommend reimbursement, the department shall ~~briefly~~ explain the rationale for the decision.

B. The board shall submit to the Governor; or ~~his~~ the Governor's designee (i) its recommendations with respect to reimbursement requests and the rationale ~~therefor~~; for those recommendations and (ii) such information as the Governor may require with respect to a request for approval of reimbursements.

C. Final appropriations are subject to the Governor's approval and legislative enactment.

Part IV III

Project Development

6VAC35-30-90. Preliminary design.

A. The sponsor shall submit preliminary design (35%) documents to the department as defined outlined in the CPSM and required by approved department procedures.

B. ~~Preliminary~~ The department shall review the preliminary design (35%) documents ~~shall be reviewed by the department within 45 days of receipt of the document~~ for compliance with applicable statutes, regulations, and any guidance documents that are incorporated ~~herein into this chapter~~.

1. If the department requires changes to the preliminary design (35%) documents, the department shall provide the sponsor with a written notification of all such required changes ~~shall be communicated in writing to the sponsor~~.

2. The sponsor shall ~~respond in writing to the department~~ provide a written response to all comments received from the department in the preliminary design review. ~~Necessary~~ The sponsor may incorporate necessary revisions to the project documents ~~may be incorporated~~ in the submission of the construction documents (referred to as the "working drawings" in the CPSM); however, all issues ~~detailed raised in these writings~~ the department's comments shall be resolved before the project is ~~advanced~~ approved for advancement to the construction document phase (~~referred to as the "working drawings phase" in the CPSM~~).

C. When all review comments have been addressed and resolved, the department shall notify the sponsor that the project has ~~progressed~~ been approved to proceed to the construction documents phase.

6VAC35-30-100. Construction documents.

A. The sponsor shall submit to the department construction documents ~~to the department as defined outlined~~ in the CPSM and required by approved department procedures. The construction documents shall include 100% complete working drawings, 100% complete specifications, and all required review approvals from local building, health, and fire officials.

B. The ~~department shall review the~~ construction documents ~~shall be reviewed by the department~~ for compliance with applicable statutes, regulations, and any guidance documents incorporated ~~herein into this chapter~~, and for incorporation of all changes required by the department at the preliminary document review stage. This review ~~in no way releases~~ shall not release the sponsor from other applicable responsibilities and requirements.

1. If the department, upon conducting the review mandated in this subsection, requires changes to the construction documents, the department shall provide the sponsor with a written communication of all such required changes ~~shall be communicated in writing to the sponsor~~.

2. The sponsor shall ~~respond in writing to provide~~ the department with a written response to all comments received from the department in the construction document review. All issues ~~detailed raised in these writings~~ the department's comments shall be resolved before the project is ~~advanced~~ approved for advancement to the bidding phase.

C. When ~~all review comments have been~~ the sponsor has addressed and resolved all review comments, the department shall approve the construction documents and advise the sponsor in writing, ~~as required in approved department procedures~~; that the project may progress to the bidding phase (~~referred to as the "bid documents phase" in the CPSM~~).

6VAC35-30-110. Change order Design change process.

If, during the project development stage, ~~any~~ a substantive change in the scope of the project, ~~any or an~~ increase in the estimated cost of construction, ~~or any change in the operational staff requirements~~ occurs for which the sponsor will seek reimbursement, the department may suspend the review process ~~shall be suspended until the project is resubmitted to the board for further review and possible change in the status of reimbursement recommendation and determine next steps~~. The department may require the sponsor to comply with any or all steps outlined in 6VAC35-30-15 through 6VAC35-30-100.

6VAC35-30-115. Failure to initiate construction within three years.

If a locality fails to execute a construction contract for the approved project within three years of the department's notice of approval of the planning study, the board approval shall expire unless the sponsor submits a written request to the board for an extension. The board may grant an extension or require the sponsor to amend the locality's needs assessment for resubmission in accordance with the process established in 6VAC35-30-42.

Part V IV

Project Construction

6VAC35-30-120. Bidding.

After bids for construction have been received and opened and the sponsor has determined to proceed with the project, the sponsor shall submit to the department a bid tabulation, analysis, and recommendation ~~as to regarding~~ the award of the contract. ~~Any~~ The department shall forward written comments ~~by the department shall be forwarded in response~~ to the sponsor within ~~five business~~ seven days of receipt; and the sponsor shall respond to the comments in writing ~~within 10 business days of receipt of the department's comments~~. The department's failure to respond in the required ~~time frame~~ timeframe shall ~~serve as~~ be deemed acceptance of the sponsor's recommendation ~~as to regarding~~ the award of the contract.

6VAC35-30-130. Construction.

A. During the project construction of all projects, the sponsor shall submit monthly inspection ~~of~~ and construction progress

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reports to the department in accordance with a schedule provided by the sponsor. The ~~If the sponsor identifies any issues as part of the monthly submission, the sponsor shall submit the reports to the department no later than the 15th day of the month following the inspection or when the progress report became due~~ explain the issue and the plan of action for addressing the issue or problem. The department shall notify the sponsor in writing within ~~10 business~~ 14 days after receipt of the inspection or progress report regarding any issues or problems with the project or the reports. The department's failure to respond in the required ~~time frame~~ timeframe shall ~~serve as~~ be deemed acceptance of the inspection and progress report. ~~Any failure to timely submit the monthly inspection or progress reports may constitute grounds to deny the requested reimbursement, in whole or in part.~~

~~B. Any substantive change~~ If, during the construction phase of the project, a locality makes a change deemed substantive due to either (i) an increase in the project cost of \$50,000 or more or (ii) accumulated change orders that exceed 25% of the original contract amount, the sponsor shall be submitted submit the change orders in writing to the department for review and approval before any such implementing the change is executed. Only those changes that are approved through the approved department procedure shall be eligible for reimbursement. Any failure to seek and obtain approval of a substantive change may constitute grounds to deny the requested reimbursement, in whole or in part.

C. Any substantive change for which the sponsor seeks additional reimbursement shall be subject to the requirements in 6VAC35-30-180 C.

6VAC35-30-140. Final inspection.

A. Upon construction completion, the sponsor shall ~~establish a schedule for ensure~~ final inspection of the project. This schedule, which shall include: (i) notification to the department and all regulatory agencies that reviewed preliminary design or construction documents of the ~~schedule~~ project; (ii) a request to the personnel or agencies involved in the final inspection to submit comments or recommendations in writing to the sponsor and to the department; (iii) documentation of the correction of all deficiencies noted in the comments; and (iv) ~~the~~ submission of a report of completed actions to the appropriate reviewing agencies and to the department.

B. Upon completion of the final inspection and corrective actions as required, the sponsor shall (i) provide to the department with copies of all required regulatory agency letters verifying approval of the completed project and shall (ii) certify to the department the completion of the project.

6VAC35-30-150. Record documents.

The sponsor shall require its architect to modify original drawings and specifications to reflect the condition of the project as actually constructed, and such documents shall be marked "Record." The record documents shall be prepared as defined in the CPSM ~~and in accordance with approved department procedures.~~

~~Part VI~~ V

Private Construction of Juvenile Facilities

6VAC35-30-160. Private construction of juvenile facilities.

~~Section 16.1-322.5 of the Code of Virginia allows the board to authorize a county or city or any combination of counties, cities, or towns established pursuant to § 16.1-315 of the Code of Virginia to contract with a private entity for the financing, site selection, acquisition, or design and construction of a local or regional detention home or other secure facility. Localities authorized to contract for private construction of a juvenile detention facility shall receive state reimbursement authorized by § 16.1-309.5 of the Code of Virginia, in accordance with Parts I through VI of this chapter seek authorization from the board before entering into such contracts by certifying and submitting documentation to the board demonstrating that both the sponsor and the contractor have satisfied all applicable requirements mandated by § 16.1-322.5 of the Code of Virginia. The board shall review the documentation and may not approve private contracts that do not satisfy the applicable requirements in § 16.1-322.5 of the Code of Virginia.~~

~~Part VII~~ VI

Final Reimbursement

6VAC35-30-180. Request for final reimbursement for all projects.

A. Upon completion of the project, the sponsor shall submit to the department a written request for final reimbursement for the applicable project, along with documentation specified by approved department procedures to the department supporting the request.

B. If the final amount of reimbursement requested is not greater than the reimbursement amount initially recommended, ~~including the contingency,~~ the department shall authorize reimbursement within 90 days of receiving a complete reimbursement request. ~~The~~ In no case shall the reimbursement request shall be in the form specified by the department amount exceed 50% of the actual project costs.

C. If the final amount of reimbursement requested is greater than the reimbursement amount initially recommended, the department shall process the initial reimbursement amount in accordance with subsection B of this section. For any increase in costs over the amount of the initial board-approved reimbursement, the sponsor shall justify the cost increase and submit the a written adjusted reimbursement request, including justification for the cost increase, to the board and the Governor, or his the Governor's designee, for approval.

D. The availability of funds for reimbursement, as approved, is contingent on the appropriation of funds by the General Assembly.

6VAC35-30-185. Guidelines for document submission.

In order to assist localities in complying with the requirements of this chapter, the department shall establish guidelines governing the form and process for submission of all documents required in this chapter.

6VAC35-30-190. Compliance.

Failure to comply with ~~these regulations~~ this chapter will delay the review process and recommendation for disbursement of funds, may result in the denial of reimbursement, and may result in the failure to obtain board certification or department approval to house residents in the facility as provided for in the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20).

DOCUMENTS INCORPORATED BY REFERENCE (6VAC35-30)

~~The Step by Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation, revised March 2001, Department of Juvenile Justice.~~

~~Construction and Professional Services Manual, Revision 1, October 2004, Department of General Services, Division of Engineering and Buildings.~~

~~R.S. Means Facilities Construction Cost Data 2009, 24th Annual Edition, R.S. Means Reed Construction Data (<http://rsmeans.reedconstructiondata.com>).~~

[Construction and Professional Services Manual, Revision 0, March 17, 2025, Department of General Services, Division of Engineering and Buildings](#)

Chapter 35

Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities

Part I

General Information

6VAC35-35-10. Definitions.

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

"Board" means the Board of Juvenile Justice.

"Board regulation" means a regulation or section or subsections of the regulation promulgated and approved by the board.

"Construction" means the act or process of erecting a new facility or replacing an outdated existing facility. For purposes of this definition, construction does not include enlargement, expansion, or renovation of an existing facility.

"Day" means calendar day unless otherwise specified.

"Department" means the Department of Juvenile Justice.

"Enlargement" or "expansion" means the extension of an existing facility through the erection of additional areas as may be determined by need or as required by law or regulation.

"Local facility" or "facility" means a juvenile residential facility that is or will be regulated by the board and is owned, maintained, or operated by a political subdivision or combination of political subdivisions of the Commonwealth, or a privately owned or operated juvenile residential facility that has contracted with a political subdivision or combination of political subdivisions of the Commonwealth and is or will be regulated by the board.

"Project" means a proposed or actual new construction, renovation, enlargement, or expansion of a juvenile residential facility that is or will be subject to approval by the department or by board regulation.

"Renovation" means the alteration or other modification of an existing facility for the purpose of changing the use or capability of such facility as may be determine by need or required by law or regulation. For purposes of this definition, renovation does not include work on or replacement of a facility that generally may be associated with normal wear and tear and included in routine maintenance.

"Sponsor" means a city, county, commission, or a combination of these entities, or a private entity under contract or arrangement with a city, county, commission, or a combination of these entities that is actually building, renovating, expanding, or operating or proposing to build, renovate, expand, or operate a local facility.

"Substantive change" means a deviation from an approved plan or design that will affect the operational and functional performance of the facility, that potentially impacts the facility's compliance with a board regulation, that would result in a change in capacity, or that would result in the sponsor seeking additional reimbursement.

"Written" means the required information is communicated in writing either in hard copy or in electronic form.

6VAC35-35-20. Applicability of this chapter.

This chapter applies to projects for which a locality is not seeking reimbursement from the Commonwealth, either now or in the future. Projects for which a locality is seeking reimbursement from the Commonwealth currently or for which the locality is seeking to preserve the option to obtain reimbursement in the future should funding become available or through legislative enactment shall be subject to the requirements of the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30).

Regulations

Part II Process for Projects

6VAC35-35-30. Prescreening.

A. A sponsor planning construction, renovation, enlargement, or expansion of a local facility, regardless of whether the sponsor is seeking reimbursement from the Commonwealth pursuant to § 16.1-309.5 of the Code of Virginia, shall submit an initial written request to the department that shall include a graphic, if available, showing the proposed structural changes and a brief description of all operating capacity or programmatic changes to be accommodated by the structure.

B. The department shall review the initial request, classify the request in accordance with the classifications established in subsection C of this section, and inform the sponsor in writing whether, based on these classifications, the project is subject to this chapter. The department shall notify the sponsor of the classification as soon as practicable but no later than 30 days after receiving the initial request from the sponsor.

C. The department shall determine under which of the following categories the request falls.

1. Projects subject to this chapter. Projects for which the locality is not seeking reimbursement now or in the future shall be subject to the requirements of this chapter.

2. Projects subject to Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30). Any construction, enlargement, renovation, or other modification of an existing local facility or piece of stationary equipment, including security related upgrades, for which the sponsor seeks reimbursement shall be subject to the requirements of Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs.

D. If the department fails to respond within the 30-day timeframe, the sponsor may proceed with the reimbursement process established in 6VAC35-30 or the process established under this chapter, as applicable.

E. A sponsor shall not be required to follow the requirements of this section for routine maintenance projects, projects that will not affect the facility's compliance with other board regulations, and other projects that involve minor changes to the facility. These projects shall not be subject to this chapter and shall be excluded from department review.

6VAC35-35-40. Project overview requirements.

A. If the department determines that the project is subject to this chapter pursuant to 6VAC35-35-30 C, the sponsor shall prepare and submit to the department for review a project overview that shall explain the purpose of the proposed project and the need the project is intended to address.

B. The project overview shall include a description of the facility's existing or proposed program, a description of the proposed project, architectural and engineering drawings at the

Schematic Design Document level, and the project's anticipated schedule for completion.

C. The department shall review the project overview upon receipt of the document and provide comments regarding the project's proposed compliance with statutes, regulations, and guidance documents applicable to this chapter.

1. If, after conducting the review mandated in this subsection, the department recommends changes to the construction documents, all such recommended changes shall be communicated in writing to the sponsor.

2. The sponsor shall provide the department with a written response to all comments received from the department in the construction document review.

6VAC35-35-50. Construction documents.

A. The sponsor shall submit to the department construction documents, which shall include 100% complete working drawings, 100% complete specifications, and all required review approvals from local building, health, and fire officials.

B. The department shall review the construction documents for compliance with applicable statutes, regulations, and guidance documents. This review shall not release the sponsor from other applicable responsibilities and requirements.

1. If the department, upon conducting the review mandated in this subsection, recommends changes to the construction documents, all such changes shall be communicated in writing to the sponsor.

2. The sponsor shall provide the department with a written response to all comments received from the department in the construction document review. All issues raised in the department's comments shall be addressed before the project proceeds to the bidding phase.

C. When the sponsor has addressed all review comments, the department shall advise the sponsor in writing that the project may progress to the construction phase.

6VAC35-35-60. Design change process.

If, during the project development stage, a substantive change in the scope of the project occurs, the department may suspend the review process and determine next steps, which may include any or all steps outlined in 6VAC35-35-10 through 6VAC35-35-50.

6VAC35-35-70. Construction.

If a substantive change occurs during the construction phase, the sponsor shall submit a written explanation of the change to the department for review and comment before the change is executed.

6VAC35-35-80. Final inspection.

A. Upon construction completion, the sponsor shall ensure final inspection of the project, which shall include: (i)

notification to the department and all regulatory agencies that reviewed construction documents of the project; (ii) a request to the staff or agencies involved in the final inspection to submit comments or recommendations in writing to the sponsor and to the department; (iii) documentation of the correction of all deficiencies noted in the comments; and (iv) submission of a report of completed action to the appropriate reviewing agencies and to the department.

B. Upon completion of the final inspection and corrective actions as required, the sponsor shall (i) provide the department with copies of all required regulatory agency letters verifying approval of the completed project and (ii) certify to the department completion of the project.

6VAC35-35-90. Record documents.

The sponsor shall require its architect to modify original drawings and specifications to reflect the condition of the project as actually constructed, and such documents shall be marked "Record."

6VAC35-35-100. Compliance.

Failure to comply with this chapter may prevent the facility from obtaining board certification or department approval to house residents in the facility as provided in § 16.1-309.9 of the Code of Virginia and the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20).

6VAC35-101-350. Buildings and inspections.

A. All newly constructed buildings, major renovations to buildings, and temporary structures shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy.

B. A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (~~13VAC5-51~~ 13VAC5-52) shall be maintained. If the fire prevention authorities have failed to timely inspect the detention center's buildings and equipment, documentation of the facility's request to schedule the annual inspection as well as documentation of any necessary follow-up with fire prevention authorities shall be maintained.

C. A current copy of the detention center's annual inspection and approval, in accordance with state and local inspection laws, regulations, and ordinances, of the systems listed below in this subsection shall be maintained. These inspections shall be of the:

1. General sanitation;
2. Sewage disposal system;
3. Water supply; and
4. Food service operations.

D. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the regulatory authority and by other appropriate regulatory agencies. Any planned construction, renovation, enlargement, or expansion of a detention center for which the locality seeks or plans to seek reimbursement pursuant to § 16.1-309.5 of the Code of Virginia shall follow the submission and approval requirements of the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30) and of any other applicable regulatory authorities. All other plans for construction, renovation, enlargement, or expansion of a detention center shall follow the submission and approval requirements of the Regulation Governing the Planning, Design, and Construction of Local Juvenile Residential Facilities (6VAC35-35).

VA.R. Doc. No. R21-5821; Filed March 9, 2026, 3:02 p.m.



TITLE 11. GAMING

VIRGINIA LOTTERY BOARD

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Title of Regulation: **11VAC5-31. Licensing Regulations.**

Agency Contact: Amy Roper, Virginia Lottery, 600 East Main Street, Lower Level, Richmond, VA 23219, telephone (804) 692-7133, or email aroper@valottery.com.

FORMS (11VAC5-31)

~~Retailer Agreement for Authorized Payments (rev. 10/2024)~~

~~Retailer Contract (rev. 7/2025)~~

~~Retailer License Application (rev. 7/2025)~~

~~Retailer Licensing Checklist (rev. 7/2025)~~

~~Retailer Location Form (rev. 7/2025)~~

~~Retailer Personal Data Form (rev. 7/2025)~~

[Retailer Agreement for Authorized Payments \(rev. 3/2026\)](#)

[Retailer Contract \(rev. 3/2026\)](#)

[Retailer License Application \(rev. 3/2026\)](#)

Regulations

[Retailer Licensing Checklist \(rev. 3/2026\)](#)

[Retailer Location Form \(rev. 3/2026\)](#)

[Retailer Personal Data Form \(rev. 3/2026\)](#)

V.A.R. Doc. No. R26-8616; Filed March 17, 2026, 3:36 p.m.

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Balfour Beatty Construction LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Balfour Beatty Construction LLC for violations of the State Water Control Law, regulations, and applicable permit at the Army Aviation Support Facility located in Sandston, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Gary Wooldridge, Enforcement Specialist, Department of Environmental Quality, Central Office, P.O. Box 1105, Richmond, VA 23218, or email gary.wooldridge@deq.virginia.gov.

Proposed Enforcement Action for Bath County Service Authority

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Bath County Service Authority for violations of the State Water Control Law, regulations, and applicable permit at the Warm Springs sewage treatment plant facility located in Warm Springs, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: John Brandt, Enforcement Specialist Manager, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 407-2341, or email john.brandt@deq.virginia.gov.

Proposed Enforcement Action for Creek Village Investments LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Creek Village Investments LLC for violations of the State Water Control Law, regulations, and applicable permit at the Village at Smith Creek facility located in New Market, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Carla Pool, Enforcement Specialist, Department of Environmental Quality, Central Office, P.O. Box 1105, Richmond, VA 23218, or email carla.pool@deq.virginia.gov.

Proposed Enforcement Action for Fork Union SNF Operations LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Fork Union SNF Operations LLC for violations of the State Water Control Law, regulations, and applicable permit at Oakhurst Health and Rehabilitation located in Fork Union, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 647-8060, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for JSSY LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for JSSY LLC for violations of the State Water Control Law, regulations, and applicable permit at the JSSY facility located in Portsmouth, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 647-8060, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for LGI Homes - Virginia LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for LGI Homes - Virginia LLC for violations of the State Water Control Law, regulations, and applicable permit at the Meadows Section 3 project located at Meadowview Boulevard, Prince George County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

Proposed Enforcement Action for Perdue Agribusiness LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Perdue Agribusiness LLC

General Notices

for violations of the State Water Control Law, regulations, and applicable permit at Perdue Agribusiness, Chesapeake, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 647-8060, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for S.B. Cox Ready Mix Inc.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for S.B. Cox Ready Mix Inc. for violations of the State Water Control Law, regulations, and applicable permit at the S.B. Cox Ready Mix Chesapeake plant located in Chesapeake, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 647-8060, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for the Town of Victoria

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for the Town of Victoria for violations of the State Water Control Law, regulations, and applicable permit at the Town of Victoria east sewage treatment plant and Town of Victoria west sewage treatment plant located in Victoria, Lunenburg County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions>. The DEQ contact will accept written comments from April 6, 2026, to May 6, 2026.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

DEPARTMENT OF GENERAL SERVICES

Revision to Fees for Drinking Water Laboratory Certification - Final Notice

The Department of General Services, Division of Consolidated Laboratory Services (DCLS) published a general notice in 42:13 VA.R. 1647-1648 February 9, 2026, seeking comments

on the revision to fees charged for certifying drinking water laboratories under 1VAC30-41-270 as required by subdivision I 2 of 1VAC30-41-270.

No comments were received on the revision to the fees. The revised fees will stand as published. The following fees are effective for May 1, 2026, through April 30, 2027, for drinking water laboratory certification under 1VAC30-41.

TESTING CATEGORY	FEE (\$)
Microbiological testing	
1 - 2 methods	829
3 - 5 methods	966
6+ methods	1104
Inorganic chemistry, nonmetals testing	
1 - 2 methods	897
3 - 5 methods	1171
6 - 8 methods	1450
9+ methods	1723
Inorganic chemistry, metals testing	
1 - 2 methods	1378
3 - 5 methods	1655
6+ methods	1928
Organic chemistry	
1 - 2 methods	1450
3 - 5 methods	1723
6 - 8 methods	2000
9+ methods	2277
Radiochemistry	
1 - 2 methods	1517
3 - 5 methods	1792
6+ methods	2068
Asbestos	
1 - 2 methods	1240
3 - 5 methods	1517
6+ methods	1792

How fees are calculated: DCLS calculates a laboratory's total fee by adding the fees for the number of test methods in each category in the fee table for which the laboratory is certified or

applies to be certified. Contact lab_cert@dgs.virginia.gov for more information about the fee category for a specific method.

Additional fees apply when a laboratory:

1. Applies for modification of certification under 1VAC30-41-110;
2. Moves location, if the move requires DCLS to perform an onsite assessment; or
3. Requests reinstatement of certification when DCLS requires an onsite assessment.

Hourly review fee and calculation of total fee: The fee to be charged is the sum of the total hourly charges for all reviewers and any onsite assessment costs incurred. The hourly charge per reviewer is \$84. The charge per reviewer is determined by multiplying the number of hours expended in the review by \$84.

Onsite review and travel expenses: If an onsite review is required, travel time and onsite review time will be charged at the same hourly rate of \$84 and any travel expenses will be added.

When to pay: Payment is due when the initial application is processed or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

How to pay: Fees may be paid by check or credit card via an electronic payment portal provided by DCLS, or other payment arrangements may be made by contacting lab_cert@dgs.virginia.gov. All payments are made after an invoice is issued by DCLS in accordance with instructions on the invoice or in accordance with special arrangements made by contacting DCLS.

Contact Information: Kimberly Freiberger, Policy Planning Specialist III, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 786-3311, or email kimberly.freiberger@dgs.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed

in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

BOARD OF NURSING

Title of Regulation: **18VAC90-60. Regulations Governing the Registration of Medication Aides.**

Publication: 42:13 VA.R. 1622-1624; February 9, 2026.

Correction to Final Regulation:

Page 1623, 18VAC90-60-30 A, Table, subdivision 4, after "aide" add "and advanced medication aide"

VA.R. Doc. No. R26-8466; Filed January 21, 2026, 11:10 a.m.